The Extractive Resource Industry in Tanzania

Status and Challenges of the Mining Sector

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The HBF Regional Office in Nairobi has supported the Society for International Development, Nairobi Office, in conducting the present study on Tanzania's mining sector, as a contribution to a broader and well-informed debate around resource governance in the region. More information about HBF work on extractive resources is available at http://www.boell.de/intlpolitics/energy/resourse-governance.html

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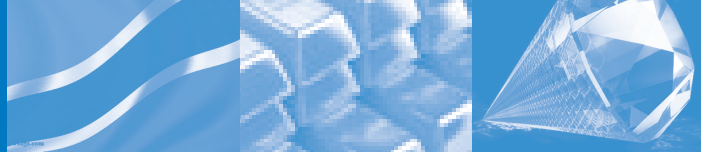

Preface

Whilst it can be argued that any country's natural resource endowments can and should contribute to growth and development as well as improved livelihoods and a decline in the poverty levels of its citizens, this is not always the case. The difference between resource-rich countries that are successful and those that are not largely depends on how well the political, economic and social structures of the country are managed. Tanzania, which is the focus of this study, possesses vast mineral, petroleum and gas deposits as well as huge tracts of forest. Yet, in spite of this bountiful natural endowment, it is still one of the poorest countries in the region today.

It is this gap between the natural wealth of the country and that of the majority of its citizens that has prompted this study. The study attempts to trace and map out the performance of the extractive industry sector in Tanzania since it was established. The study analyzes the interactions of the different stakeholders with a view to explaining why the sector is in its current state. It also argues that collaboration between the various stakeholders is of vital importance, and goes further to suggest that few performance improvements can be obtained if their involvement and commitment is lacking. It is thus imperative that any approaches exploring the decidedly emotive questions surrounding the extractive industry in Tanzania take into account the need to bring the various stakeholders to common purpose and establish an atmosphere in which their needs and contributions are not only appreciated, but are also respected.

Ultimately, it could be argued that success can only be determined by the extent to which the resource endowment contributes to the well being and sustainable development of Tanzania and her citizens. It is in this light that this Report seeks to contribute to the ongoing debate on the performance of the extractive industry in Tanzania.

Mining in Tanzania started as far back as the pre-colonial era. The performance of the industry over the years has been determined by various political, social and economic ideologies and policies that characterised different phases, namely: colonial governance, African Socialism, state control and, most recently, pro-foreign investment policies. Policies and decisions enacted in each of these eras have made a significant contribution to the history of the mining industry.

Since Tanzania liberalized its economy two decades ago, the mining industry has seen a series of new acts and policies put in place to attract foreign investment, the underlying objective being to promote the large-scale extraction of the countries mineral reserves. As a result, Tanzania has been able to score positively on a number of fronts, opening up new mines and boosting government revenues. Recent earnings from gold mining have contributed about US$ 750 million per year in foreign exchange and tax contributions from gold production. Gold mining is also one of the largest sources of tax revenue for Tanzania at 3.6 percent of annual collections. These revenues have helped to pay for essential manufactured imports.

However, this success has not come without its own set of concerns and a sense of disgruntlement. Amongst certain stakeholders, there is a feeling that the mining sector could be contributing much more to the national exchequer than it currently is. The legislative and legal regimes around the mining sector, it is argued, seem to lean more towards encouraging foreign investment than to promoting and safeguarding the interests of the wider Tanzanian population. There are also concerns over the harmful impacts of the industry on the environment and politics. Moreover, the fraught issue of the livelihoods of those people who have been moved from their homes and farms to give way to mining activities remain unresolved. Furthermore, there is little or no evidence to show that the increase in the extraction of the country's natural resources has actually contributed to a reduction in poverty levels.

With this mixed bag of progress and tensions, the experiences of other resource-rich countries in the region could provide some useful lessons from which the Tanzanian government and its people could draw in their search for solutions to the challenges and opportunities the industry faces. This report suggests that there is need for an assessment of the performance of the extractive industry thus far with a view to avoiding the path taken by other natural resource-rich countries that ended up with the 'resource curse'.

Tanzania can yet become one of the best performers in her class. However getting there will require some hard work and investment, focusing particularly on improving various aspects of the industry. Specifically, these should include: accountability and transparency (with particular regard to the nature of contracts and agreements signed with investment partners); respect for human rights; and careful management of the environment in order to ensure sustainable development.

Acknowledgements

The Society for International Development wishes to acknowledge the contribution of various individuals and organizations who made this publication possible. This publication emerged from a series of workshops on the subject of Extractive Industries in Eastern Africa. Tanzania was chosen for an initial case study on account of the advanced stage of its extractive industry.

We would like to acknowledge the valuable contribution of the lead authors Faustin P. Maganga of the University of Dar-es-Salaam, Tanzania and Amani Mustafa Mhinda of the Tanzania Mineworkers Development Organisation. We appreciate the time taken by the research conceptualization and peer review teams for their valuable insights and information that contributed to shaping the content of this report. There are too many names to mention individually but we would like to thank Audax Rukonge and Silas Olang' in particular. We also acknowledge the contribution of Rachel Keeler of Ratio Magazine for her critical insights, which went a long way to improving this publication.

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Duncan Okello
Director, SID Regional Office for Eastern Africa
Nairobi

List of Abbreviations

ACP	African, Caribbean and Pacific
AFGEM	African Gem Resources
CBO	Community Based Organisation
CSO	Civil Society Organisations
EAC	East African Community
EIA	Environmental Impact Assessment
EITI	Extractive Industries Transparency Initiatives
EMA	Environmental Management Act
EMP	Environmental Management Plan
EPA	Environmental Protection Agency
ERI	Extractive Resources Industry
ESIPP	EU-SADC Investment Promotion Programme
EU	European Union
FDI	Foreign Direct Investment
FEMATA	Federation of Miners Associations in Tanzania
FIPA	Foreign Investment Promotion and Protection Agreements
GDP	Gross Domestic Product
GGM	Geita Gold Mine
GML	Gemstone Mining Licence
GNI	Gross National Income
GNT	Government Negotiation Team
IMF	International Monetary Fund
JMT	Jamhuri ya Muungano wa Tanzania (United Republic of Tanzania)
KCMC	Kiwira Coal Mines Company
LEAT	Lawyers Environmental Action Team
LGA	Local Government Authority
MCDP	Mwadui Community Development Partnership
MDA	Mineral Development Agreement
MoFEA	Ministry of Finance and Economic Affairs
NDC	National Development Corporation
NEMC	National Environment Management Council
NGO	Non Governmental Organisation
NMDC	National Mineral Development Corporation
PL	Prospecting Licence
PML	Primary Mining Licence
PPL	Primary Prospective Licence
PWC	PricewaterhouseCoopers
PWYP	Publish What You Pay
SADC	Southern Africa Development Community
STAMICO	State Mining Corporation
TANESCO	Tanzania Electric Supply Company
TAWOMA	Tanzania Women Miners Association
TRE	Tanzania Royalty Exploration
URT	United Republic of Tanzania
WB	World Bank

Introduction

Background and Objectives of the Report

The existence of natural resources in a country is expected to contribute to its economic growth and development, and improve the living standards of its population. In many cases though, mineral wealth has instead been associated with devastating political conflict enduring economic decline (Macartan et al, 2007) and complications that come with these: low human development indices, weak democratic institutions, poor accountability mechanisms, intrusive military regimes, forced migration and environmental pollution. Instead of being a blessing, the existence of natural resources within a country's borders often appears to be a curse to its social, economic and political systems. Situations where countries endowed with resources often fare badly are referred to as the resource curse.

This report focuses on Tanzania, a relatively late arrival to large-scale mining, and argues that the existence of vast extractive natural resources in the nation should be considered a badge of honour and pride and used wisely to benefit the population. Believing that the resource curse theory can be eliminated in Eastern Africa if collective effort is made to promote transparency, accountability and ethics in the Extractive Resource Industry (ERI), this report hopes to contribute towards the improvement of political and administrative management of the extractive industry in Tanzania by providing relevant information, statistics, analyses and observations that would invigorate the discourse on the extractive industry in Tanzania and ensure the country's resource endowments play a positive role in the general development of the country.

The following factors as pointed out by the research conceptualisation team[1] explain the rationale of this study.

- There is need to re-examine the relevance of existing laws governing the industry; and to sanitise natural resource management and uses so that any discovered resources are utilised in a way that best benefits the country and its citizens.
- Inequitable distribution of benefits from the extractive industry at both the global and national level is a serious problem that needs to be addressed.
- There are few actors in Tanzania involved in mining and advocacy issues at both grass roots and national level. This research could contribute to informing advocacy efforts.
- The powerful potential of information to contribute to defining how governments utilise their natural resources and ensure that they secure the interests of the country.
- Most existing research on this issue has been reactive rather than pro–active.

1.2 Scope of the Report and Methodology

This report was primarily based on literature reviews, and supplemented by consultations with the Ministry of Energy and Minerals in Tanzania and other authorities in this field such as the Lawyers Environmental Action Team (LEAT), who have a track record of campaigning for environmental issues and human rights in mining areas. The author was also able to consult a number of

1 Research Conceptualisation Meeting held on 9th May 2008 in Dar es Salaam, Tanzania

references, for example Curtis and Lissu's report "The Golden Opportunity" (2008); Shivji (2007a), Macartan Humphreys et al (2007), and many others. The latest government documents on the sector were consulted, including the 2008 budget speech of the Ministry of Energy and Minerals (JMT, 2008a) and the report of the Presidential Committee on Mining Review (JMT, 2008b).

While the extractive industry in Tanzania encompasses forestry and natural gas, this report focuses almost exclusively on the country's mining sector.

1.3 Organisation of the Report

The report is divided into eight sections. Section 2 is a presentation of Tanzania's mineral endowment. Section 3 goes into the history of Tanzania's Extractive industry and examines the various phases that the industry has gone through and how these have shaped and in turn been shaped by subsequent policy. Section 4 deals with the various international multinational actors in Tanzania's mining industry. The governance and management of the ERI in Tanzania is discussed in section 5, with special attention to the nature of existing contracts. Section 6 explores and analyses the impact of the mining industry on Tanzania's economy, politics and social development. The various attempts made by different actors in an effort to improve and reform the industry are discussed in section 7. The report concludes in section 8 with some observations and implications for the future of ERI and Tanzania.

PHOTO: © Paul Sproat

Tanzania's mineral wealth

2

Tanzania is endowed with a vast and very valuable extractive resource industry consisting of forestry, petroleum and minerals. It is ranked fourth in terms of diversity and richness of mineral resources in Africa, after South Africa, Democratic Republic of Congo and Nigeria. This report focuses on Tanzania's mineral resources, including metallic deposits, gemstones, and industrial minerals. The mineral wealth of Tanzania, although well known for decades, has remained essentially untapped and under exploited until the late 1990s when the country experienced a mineral exploration and exploitation boom, following the liberalisation and privatisation of the economy. (Malyamkono and Manson, 2006: 295) Since then the sector has grown, and there has been an increase in the value of mineral exports.

2.1 Petroleum and Natural Gas

Information provided by MBendi Information Services (2009) reveals that Tanzania can be considered under-explored as far as petroleum and natural gas are concerned. There are positive indications of hydrocarbon potential in the form of oil seeps, gas and oil shows, but only relatively few exploration and development wells have been drilled. The biggest discoveries have been the Songo Songo and the Mnazi Bay gas fields. Tanzania is witnessing an increase in exploration activity following the recent signing of three new Production Sharing Agreements by the Government; with Maurel & Prom of France and Petrobras of Brazil for areas close to the Nyuni Licence area and with the Artumas Group of Canada for the Mnazi Bay area in southern Tanzania. In March 2005 EnerGulf Resources Inc. entered into an agreement with JEBCO Seismic Ltd. to explore for petroleum on the Tanga Block along the coast and offshore Tanzania. Because of this petroleum and natural gas wealth, today more than a dozen international oil and gas

concerns are in operation in Tanzania, including companies from the United Kingdom, Australia, Canada, Norway, Brazil, Holland, France and the United Arab Emirates.

2.2 The Forestry Sector

Forestry is a large and valuable resource in Tanzania covering about 38.8 million hectares or 43.3 percent of the total land area. It is estimated that the combined annual value of the forest goods and services is US$ 2,213,981,070.This sector contributed over 10 percent of the total Gross Domestic Product (GDP) at 2006 prices (URT 2008). However this sector has also experienced the problems faced by other extractive activities in Tanzania, including the alleged involvement of senior public officials in a trade that involves a significant proportion of illegally sourced timber, opaque control of the trade by private firms and major short comings in public management and decision -making.

2.3 The Mining Sector in Tanzania

The mining sector in Tanzania includes both small–scale operations characterised by the deployment of manual and rudimentary technologies; and large-scale mechanised mining dominated by nine major mines: six for gold and one each for diamonds, coal and Tanzanite. Gold accounts for 90 percent of the value of Tanzania's mineral exports.

2.3.1 Tanzania's Mineral Reserves

Table 1 presents Tanzania's proven mineral reserves by type and amount in 2007.

Table 1: Proven Mineral Reserves in Tanzania

Type of Mineral	Amount
Gold	2,222 tonnes
Nickel	209 million tonnes
Copper	13.65 million tonnes
Iron Ore	103.0 million tonnes
Diamonds	50.9 million carats
Tanzanite	12.60 tons
Limestone	313.0 million tonnes
Soda Ash	109 million tonnes
Gypsum	3.0 million tonnes
Phosphate	577.04 million tonnes
Coal	911.0 million tonnes

Source:Geological Survey of Tanzania, 2007

Tanzania's minerals have been categorised by the Ministry of Energy and Minerals into five groups: metallic minerals, gemstones; industrial minerals, energy minerals and dimension stones.

(i)Metallic Minerals

These include: gold, iron ore, copper, cobalt and silver. Among the metallic minerals, gold is the most important and has been mined in Tanzania since the pre-colonial era. In recent years, Tanzania has risen from being an insignificant gold producer in the early nineties to become the third largest producer of gold in Africa after South Africa and Ghana. The country currently produces over 50 tonnes of gold per annum, but there are ample opportunities for increasing the output, as a lot of exploration is currently taking place and new licences continue to be issued.

(ii) Gemstones

A wide variety of gemstones are mined in Tanzania including: diamonds, tanzanite, rubies, garnets, tourmaline, sapphires, topaz and emeralds.

(ii) Industrial Minerals

Clays, glass, sand, kaolin and limestone are some of the industrial minerals found in Tanzania. The development of these minerals is still in its infancy. However, limestone, clay and gypsum are consumed in local industries.

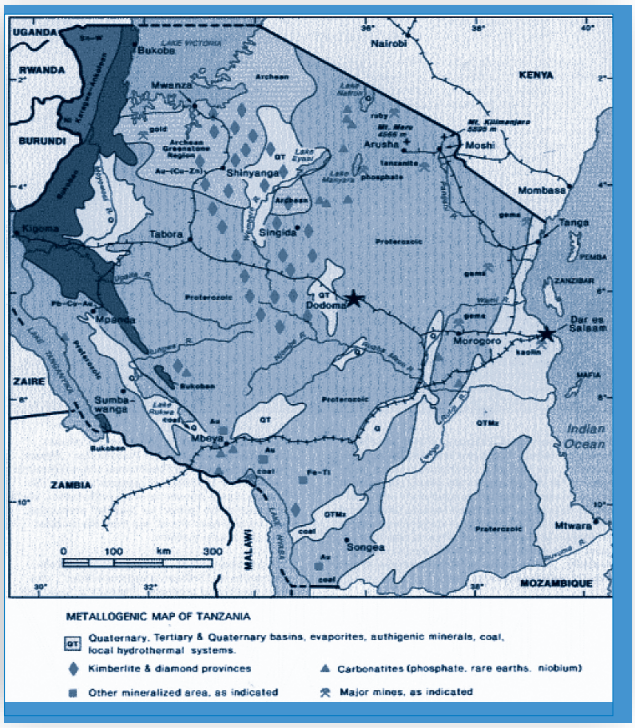
(iv) Energy Minerals

The energy minerals found in Tanzania include low- sulphur coal and uranium (URT, 2005). Coal is currently exploited on a small scale at Kiwira Coal mine.

(v) Rocks

There are a wide variety of rocks in Tanzania. These include granite that exists in a variety of colours i.e. pink, grey and black. These are mostly found in Dodoma, Mbeya, Morogoro, Mwanza, Singida, and Tabora regions. The major mining areas in Tanzania are indicated in the metallurgic map of Tanzania Map 1 below.

Map 1. Metallurgic Map of Tanzania



Source: Lange (2006:4)

2.4 Major Mining Ventures and Projects in Tanzania[2]

2.4.1 Gold

Bulyanhulu Gold Mine

This mine is located in Kahama district, Shinyanga region, some 56 kilometres from Lake Victoria and 153 kilometres from Mwanza City. Bulyanhulu Gold Mine Ltd owns the mine. It is a subsidiary of the Barrick Gold Company of Toronto, Canada. The mine begun production in 2001. By the end of 2005 the total investment had reached US$ 610 million. The mine reserves are estimated at 13.2 million ounces of gold (equal to 411 tonnes) It is producing an average of 300,000 ounces of gold (11.34 tonnes); 200,000 ounces of silver and 8 million pounds of copper per year. At the present rate of production, it is expected that the mine will last for 30 more years. Between 2001 and December 2005 the mine had paid a total of US$ 15.18 million in royalties and US$ 68.28 million in other taxes. The mine employs 1,913 people of whom 1,710 (or 89%) are Tanzanians.

North Mara Gold Mine:

This mine is located in Tarime, Mara region, 43 kilometres from Tarime town. North Mara Gold Mines Ltd. a subsidiary of the Barrick Gold Company from Toronto, Canada owns the mine. Production began in 2002 under the ownership of Afrika Mashariki Gold Mines Ltd. The mine reserves are estimated at 3.8 million ounces of gold (equal to 116.23 tonnes) and it currently produces an average of 267,000 ounces of gold (8.51 tonnes) per year. At the present rate of production, it is expected that the mine will last for 12 years. Between 2002 and December 2005 the mine had paid a total of 9.58 million US$ in royalties and US$ 20.92 million in other taxes. The mine employs 1,103 people, 923 (or 84%) of whom are Tanzanians.

2 This sub-section draws mainly from the Report of the Presidential Committee on Mining Review (JMT 2008)

Tulawaka Gold Mine

This mine is located in Biharamulo district, Kagera region, about 160 kilometres south west of Mwanza city. The mine is a joint venture between Pangea Minerals Limited (a subsidiary of Barrick Gold which owns 70% of the shares) and Minieres du Nord company, also of Canada which owns the remaining 30% of the shares. Production began in 2005 and the mine reserves are estimated at some 565,000 ounces of gold (equal to 17.57 tonnes). Current annual gold production averages some 120,000 ounces (3.88 tonnes). At the present rate of production, it is expected that the mine will last for 5 years. As of 2006 the mine had paid a total of US$ 2 million in royalties and US$ 5.2 million in other taxes. The mine has a total of 508 employees, 481 (95%) of whom are Tanzanians.

Geita Gold Mine

In 1994 a British company Cluff Resources Plc was awarded a Prospecting Licence for the Geita mine area. In 1996 Ashanti Gold Fields Company of Ghana bought the Cluff in its entirety and continued with prospecting work until 1999 when mining activities commenced. In 2000 Anglogold Company of South Africa bought a 50% stake in Ashanti Gold Fields and the two companies formed a joint venture company called Anglogold Ashanti Limited, which now owns the Geita Gold Mine. The mine reserves are estimated at some 16.95 million ounces of gold (equal to 527.02 tonnes) and annual gold production currently averages some 560,000 ounces (18.43 tonnes). As of the end of 2004, a total of US$ 450 million had been invested in development of the mine. Between 1999 and December 2005 the mine had paid a total of US$ 36 million in royalties and US$ 37 million in other taxes. The mine employs 2,296 people, 2,222 (97%) of whom are Tanzanians.

Golden Pride Gold Mine:

This mine is located at Lusu, Nzega district in Tabora region and is owned by Resolute Tanzania Ltd. Production at this mine began in 1998, and by 2005 a total capital investment of US$ 370 million had been made. The mine reserves are estimated at some 2.47 million ounces of gold (equal to 76.82 tonnes) and annual gold production averages some 180,000 ounces. Initially, it was thought that the mine would have a life span of eight years, but more reserves have since been discovered and it is expected that the mine will last through to 2012. By the end of 2005 the mine had paid a total of US$ 11.14 million in royalties and US$ 16.95 million in other taxes. The mine has a total of 619 employees, 604 (98%) of whom are Tanzanians.

Buhemba Gold Mine:

Production started in 2003 and by 2005 the total investment was US$ 65 million The mine was producing an average of 75,000 ounces of gold per year, and it was expected that the mine would have a life span of 8 years. Currently the mine has ceased production due to technical problems. By the end of 2004 the mine had paid a total of US$ 1.8 million in royalties and US$ 3.0 million in other taxes. The mine had a total of 438 employees, 405 (92%) of whom were Tanzanians.

Buzwagi Gold Mine

This mine is located in Kahama district, Shinyanga region and is owned by Pangea Minerals Limited, itself a subsidiary of Barrick Gold Corporation of Canada. The US$ 400 million mine was expected to begin production during the second half of 2009[3]. The mine's gold reserves are estimated at 2.4 million ounces and annual production is expected to yield 225,000 ounces of gold. At this rate of production it is expected that the mine will produce for ten years and employ 696 people of whom 630 (91%) would be Tanzanians.

3 http://www.tradingmarkets.com/.site/news/Stock%20News/2241807/ accessed on October 4, 2009

2.4.2 Diamonds

Mwadui Diamond Mine

This mine, which started production in 1951, is located in Kishapu district, Shinyanga region. The mine is owned through a joint venture arrangement between Wilcroft Company (a subsidiary of De Beers Group of South Africa), which owns 75 percent of the shares, and the Government of Tanzania, which owns 25 percent. Based on an assessment conducted in 1994 the mines diamond reserves are estimated at 50.9 million carats. Presently the mine is producing an average of 250,000 carats of diamonds per year, but there are plans to expand production to some 500,000 carats per year. Between 1997 and 2005 the mine had paid a total of US$ 8.4 million in royalties and US$ 16.7 million in other taxes. The mine has a total of 967 employees, 959 (99%) of whom are Tanzanians.

El-Hillal Diamond Mine

This mine is located in the Mwadui area, Shinyanga region and is owned by Tanzanian firm, El-Hillal Minerals Limited. By 2007 the company had produced a total of 30,000 carats of diamonds, worth US$ 6 million. The company has so far paid a total of US$ 300,000 in royalties and other taxes. The mine employs a total of 220 persons, all of whom are Tanzanians.

2.4.3 Tanzanite

Tanzanite One Mine

This mine is located in Simanjiro district, Manyara region, about 80 kilometers from Arusha town. At first, tanzanite mining was undertaken by Merelani Mining Company, a subsidiary of African Gem Resources (AFGEM). In 2003, Afgem's tanzanite business and assets were acquired by the TanzaniteOne Group, a Bermuda-based business formed by Afgem officers, with the intention of listing the company on the Alternative Investment Market of the London Stock Exchange (AIM)[4]. The mine started production in 1999, with investment capital totalling US$ 20 million. By 2005 the government had collected a total of US$ 1.47 million in royalties and US$ 5.5 million in other taxes. The mine has a total of 599 employees, 579 (97%) of whom are Tanzanians.

2.4.4 Coal

Kiwira Coal Mine

This mine is located in the Mbeya region. Through assistance from the Chinese government, the Kiwira Coal Mines Company (KCMC) was established in 1988 for the purpose of mining coal for industrial use and generating electricity for the use of the mine. KCMC was previously owned by STAMICO, which held all its shares, before it was privatised in 2005 and sold to a Tanzanian company: Tan Power Resources Limited which holds 70 percent of the shares, leaving STAMICO with 30 percenton behalf of the government. The company has a 20-year contract to supply TANESCO with 200 mega watts of electricity, starting in 2009.

2.4.5 Nickel

Kabanga Nickel Project

This project is located in Ngara district, Kagera region and is a 50-50 joint venture between Xstrata Company and Barrick Gold Corporation. Xstrata is currently continuing with the pre-feasibility study to set up a big nickel mine in the Kabanga area. The project is expected to cost more than US$ 2 billion and when production starts, Kabanga will be the biggest nickel mine in the world. In addition, the mine is also expected to produce cobalt and copper. Current projections call for electricity requirements of 40MW to produce nickel concentrates and 800MW to process the concentrates in the country. Providing this power is likely to be a major challenge in addition to the road and rail access issues that also need to be addressed.

4 http://www.tanzanite-gemstone.com/downloads/tanzanitetransformed.pdf accessed on October 4, 2009

2.4.6 Coal

Mchuchuma Coal Project

Located in Ludewa district, Iringa region and this project is currently being developed by the National Development Corporation (NDC). A pre-feasibility study was undertaken between 1995 and 1996 to determine the economic feasibility of producing electricity from coal. Research has since established that it is economically and technically feasible to establish an electric power station at Mchuchuma whose coal is suitable for industrial base load.

Confirmed coal reserves are 159 million tonnes, but exploration suggests they may be as large as 377 million tonnes. The Tanzanian government has instructed NDC to source investors with the capacity to invest in the Mchuchuma project, which is expected to cost US$ 612 million for the construction of a coal mine, a 400MW power station and transmission lines to connect with the national grid as well as for resettlement costs and other infrastructure.

2.4.7 Iron

1.Liganga Iron Project

As with the Mchuchuma project, the Liganga Iron Project is located in Ludewa district, Iringa region, and it is also being developed by the NDC. In addition to iron, Liganga also has Titanium and Vanadium deposits. Estimated iron reserves in the Liganga Rocks are 1,218 million tonnes distributed as follows: Mkelema-Maganga Matitu: 98 million tonnes; Maganga-Luhaha: 240 million tonnes; Mgendiguruime-Mwaselenga: 160 million tonnes; Liganga: 320 million tonnes; and Ng'ongwa-Merere: 400 million tonnes. Based on research undertaken in 1984, the investment costs were estimated at US$ 720 million for the construction of an iron smelter and US$ 1.2 billion for a coal mine, power station and other infrastructure.

2.4.8 Summary of Tanzania's mining ventures

Table 2 below presents a summary of information about the major mining ventures in Tanzania, including ownership, location, employment and total investment.

Table 2: Ownership, Location and other Features of Major Mining Ventures in Tanzania

Name of Mine and Owner	Location	Employment	Total Investment (in Million US$)	Total Payment of Taxes and Royalties (in Million US$)	Proven reserves (million ounces)	Current annual production (ounces)	Lifespan of the mine (years)
Buzwagi Gold Mine. Owned by Pangea Minerals Ltd; Subsidiary of Barrick Gold Corporation (Canada)	Kahama District, Shinyanga Region	696; of whom 630 Tanzanians 91%).	372	Production yet to start	2.4	225,000 (Expected)	10
Bulyanhulu Gold Mine. Owned by Bulyanhulu Gold Mine Ltd; Subsidiary of Barrick Gold Corporation (Canada)	Kahama District, Shinyanga Region	1,913; of whom 1,710 Tanzanians (89%)	610	15.18 (Royalties); 68.28 (other taxes)	13.2	330,000	30
North Mara Gold Mine. Owned by North Mara Gold Mines Ltd; Subsidiary of Barrick Gold Company (Canada)	Tarime District, Mara Region	1,103; of whom 923 Tanzanians (84%)	Figures not available	9,5 (Royalties); 20.92 (other taxes)	3.8	269,000	12
Tulawaka Gold Mine. Joint Venture between Pangea Minerals Ltd (Subsidiary of Barrick Gold Company (Canada) (70%) and Minieres du Nord (Canada) 30%)	Biharamulo District, Kagera Region	508; of whom 481 Tanzanians (95%)	Figures not available	2.0 (Royalties); 5.2 (other taxes)	0.565	120,000	5
Geita Gold Mine. Owned by Anglogold Ashanti Limited	Geita District, Mwanza Region	2,296; of whom 2,222 Tanzanians (97%)	450	36.0 (Royalties); 37 (other taxes)	16.95	560,000	20
Golden Pride Gold Mine. Owned by Resolute Tanzania Ltd.	Nzega District, Tabora Region	619; of whom 604 Tanzanians (98%)	370	11.4 (Royalties); 16.95 (other taxes)	2.47	180,000	12
Mwadui Diamond Mine. Joint Venture between Wilcroft Company (Subsidiary of De Beers Group (South Africa) (75%) and Government of Tanzania (25%)	Kishapu District, Shinganya Region	967; of whom 959 Tanzanians (99%)	Figures not available	8.4 (Royalties); 16.9 other taxes	50.9 million carats	250,000 carats	Figure not available
El Hillal Diamond Mine. Owned by El-Hillal Minerals Ltd; a Tanzanian company	Mwadui area; Shinyanga Region	220 (all Tanzanians)	Figures not available	0. 300 (Royalties and other taxes)	Information not available	Up to 2007 managed to produce 30,000 carats, worth US$ 6 million	Information not available
TanzaniteOne Mine.	Simanjiro District, Manyara Region	599 of whom 579 Tanzanian (97%)	20	1.47 (Royalties); 5.5 (other taxes)	Information not available	Information not available	Information not available

Source: JMT (2008b)

In recent years the mineral sector has registered rapid growth in terms of foreign direct investment (FDI), mineral exports and foreign exchange earnings. Table 3 below shows the value of exported minerals between 1998 and 2007 Mining is one of the leading sectors in terms of attracting foreign

Table 3: Value of Exported Minerals between 1998 and 2007 (US$ million)

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Diamonds	11.10	26.40	45.80	30.60	28.13	31.86	33.68	25.35	25.91	28.91
Gold	3.30	39.80	120.50	256.80	374.33	504.14	596.62	639.63	772.06	888.87
Gemstones	8.10	14.00	18.50	18.80	19.77	19.05	26.89	40.53	31.01	35.58
Salt	-	-	-	-	-	1.32	2.05	1.63	2.00	2.17
Phosphates	-	-	-	-	0.04	0.06	0.51	0.03	0.28	0.72
Silver	-	-	-	1.00	0.95	1.32	2.95	1.60	5.54	5.32
Copper	-	-	-	5.01	6.54	7.33	12.17	11.64	19.90	21.06
Total	22.50	80.20	184.80	312.21	429.76	565.07	674.87	720.41	856.70	982.63

Source: Data from Ministry of Energy and Minerals, 2007

direct investment, having attracted over US$ 2.5 billion of FDI since 1998. According to the government (URT 2007), Tanzania has been receiving the largest proportion of FDI in Africa in the mining sector. As a result, Tanzania has risen from an insignificant gold producer in the early 1990s to become the third largest producer of gold in Africa after South Africa and Ghana. Currently, the country produces over 50 tonnes of gold annually. There are ample opportunities for a significant increase. In spite of the impressive figures cited above, many in Tanzania have voiced serious concerns about how little the country is benefiting from large scale mining, particularly gold mining.

Table 4 presents the contribution of the mining sector to the GDP between 2002 and 2007.

Table 4: Contribution of the Mining Sector to GDP between 2002-2007[5]

	2002	2003	2004	2005	2006	2007
Contribution to GDP in millions (TShs)	220,000	288,200	357,368	457,431	576,363	742,932
Contribution to GDP based on 2001 prices (%)	1.9 (2.7)	2.1 (3.0)	2.3 (3.2)	2.4 (3.5)	2.6 (3.8)	2.7
Real growth of the mining sector based on 2001 prices (%)	16.9	17.1	16.0	16.1	15.6	10.7
Value exported minerals (US$ million)	440.26	565.08	674.87	727.45	836.9	886.6

Source: JMT (2008a: 83) and JMT (2008b)

Mining Licences Issued between 2000 and 2007

The opening up of the sector by the Mineral Policy 1997 and Mining Act of 1998 encouraged Foreign Direct Investment and thus a significant increase of foreign investors mostly in the area of gold mining. There has been an increase in the number of mining licences from 2000 onwards as indicated in Table 6 below.

5 The table contains preliminary figures cited in the Budget Speech of the Minister of Energy and Minerals JMT (2008a). The figures in brackets are cited in the Report of the Presidential Committee on Mining Review (JMT 2008b).

Table 5: Mining Licences Issued between 2000 and 2007

YEAR	2000	2001	2002	2003	2004	2005	2006	2007	Total
Reconnaissance Licence	6	8	16	34	57	105	48	155	429
Prospecting Licence (PL)	199	186	225	263	515	782	198	607	2975
Mining Licence	19	47	16	17	30	57	19	28	233
Primary Mining Licence (PML)	0	562	701	550	1,688	666	628	1933	6728
Dealers Licence	34	62	149	105	101	67	170	305	993

Source: Data from Ministry of Energy and Minerals, 2008

Companies holding these licences are predominantly Canadian, Australian and South African. The Canadian Barrick Gold Corporation and the South African firm AngloGold Ashanti (AGA) dominate the Tanzanian mining industry. Two Canadian companies, Barrick and Tanzania Royalty Exploration Corporation (TRE) control over 50 percent of Tanzania's gold projects. Barrick owns three of the seven major gold mining projects in Tanzania, while TRE controls over 60 percent of the mining rights in the mineral rich area of Lake Victoria.

Table 6: Collection of Mining Royalties 1997-2006 (US$ million)

Year	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
US$ (m)	0.707	0.475	1,247	4,652	7,512	10,917	16,522	21,452	23,528	25,703

Source: Data from Ministry of Energy and Minerals, 2007

2.6 Tanzania's vast mineral wealth vs. benefits to the population

Despite the impressive endowment of the ERI in Tanzania, the sector is faced with a number of challenges that hinder its expected contribution to the Tanzanian population. The Bomani Commission Report (2008) pointed out that despite the presence of a huge amount of mineral reserves, the contribution of this sector to the national economy and community development is not meeting the citizens' expectations, compared to the other sectors in the economy. Mineral-rich Tanzania is also one of the poorest countries in the world, with a per capita income estimated at about $440 per year in 2008. This was lower than the average of per capita income of low-income countries of $524[6]. The CIA World Fact Book (2008) reveals that Tanzania's economy is overwhelmingly donor- dependent and as of December 2008 the country had an external debt of US$ 5.3 billion.

The National Vision 2025 and the 1997 Mineral Policy envisage that by 2025 this sector should contribute more than 10 percent of the GDP, but if the trends seen over the past decade are to prevail, it is unlikely that this goal will be attained.

6 World Development Indicators, The World Bank, 15 September 2009 available on http://siteresources.worldbank.org/DATASTATISTICS/Resources/GNIPC.pdf as of 4 October 2009

Other countries that enjoy similar mineral endowment have managed to turn them into economic prosperity for the nation and its population. In southern Africa for example, Botswana has managed to transform itself from being one of the poorest countries in the world at independence in 1966 to a middle-income country with a per capita GDP of US$ 13,300 in 2008. Mining accounts for over 70 percent of Botswana's foreign earnings and 34.2 percent of its GDP. Tax revenues from minerals improved from one percent at independence to 50 percent presently. Royalty rates calculated as a percentage of gross market value of the mineral are currently 10 percent for precious stones and coal, and three percent for all other minerals, including building and industrial mineral products. Botswana's general mining policy aims at maximising the national economic benefit from development and mineral resources. (Matshediso, 2005)

Canada, one of the world's oldest and largest producers and exporters of minerals, has also been able to translate its mineral wealth into industrialisation and high economic growth over the past 50 years. Mining has been conducted in Canada since the seventeenth century, but the remarkably rapid development of mineral exploitation dates from the end of First World War. According to a Canadian Mineral Industry Federation Brief (2009), the Canadian mining industry contributed US$ 40 billion to Canada's GDP in 2008, employing 351,000 workers in mineral extraction, smelting, fabrication and manufacturing. While the industry is important to remote communities, it also generates prosperity in large cities. It is estimated that 3,140 suppliers provide equipment, consumables and expertise to the industry including hundreds of manufacturing, engineering, geo-technical, environmental and financial firms. Canada features world-leading mineral exploration capabilities and there are some 1,000 Canadian exploration companies active in over 100 countries. Canadian mining companies had accumulated stock of $67 billion in investment abroad as of 2008.

Siri Lange (2006) underlines the importance of institutional stability and overall good economic management for mining countries. She argues that economic management (especially revenue) is important for mining countries to fare well. "Best in Class" countries have strong institutions and well-formed policies, while "Worst in Class" countries are slow to reform and suffer civil strife and unrest. In sub-Saharan Africa, Botswana, Namibia and Ghana belong to the first group, while Cameroon, Zambia, Congo and Sierra Leone belong to the latter. Tanzania is a relative new comer into the extractive industry. This makes it necessary that attempts are made to ensure that the country takes the right direction.

PHOTO: © Xavier Massonnaud

History of Tanzania's mining industry

3

The development of the mining industry in Tanzania is closely defined by the political, social and economic transformations that the country has undergone over the years; the legal and policy developments through the different phases of its history and the unique features that each phase portrayed. The current state of Tanzania's mining industry should thus be discussed in light of its history, which can be categorised into five phases.

3.1 Phase 1 – The Colonial Era (1840-1961)

The history of mining activities in Tanzania goes back to the pre-colonial era, with activities such as mining of gold, iron, copper and salt by Arab traders. However, as noted in URT (2005), the earliest organised prospecting and mining took place during the German colonial period, beginning with gold discoveries in the Lake Victoria region in 1894. Mining began at Ngasamo and Sekenke mines in 1909. Lemelle (1986) notes that while the gold mines of Mwanza, Musoma, Singida and Lupa have generally received little attention of late, in the period between the First and the Second World Wars some thirty to forty thousand labourers were involved in various gold mining activities here. In terms of value and investment, only sisal production was more important to the economy of Tanganyika in the period prior to the Second World War. Apart from gold, other minerals such as mica, garnet, coal and uranium were discovered (Chachage 1995). The German rulers were particularly interested in mica (mined in the Uluguru Mountains, near Morogoro) and gold. Mica was of interest because of its use in electrical insulation and the making of bomb castings. The importance of gold was a result of the fact that Germany had decided to base its currency on the gold standard by 1870.

The German colonial government encouraged mineral exploitation by private companies and thus introduced the concession system, whereby companies were given exclusive mining rights to large areas which showed mining potential (Lemelle, 1986). This system yielded results when the Gold Syndicate Concession for Precious Metals discovered the "Bismarck Reef" near Geita in the early 1900s. By 1910, there were some 76 prospecting fields for various minerals, especially gold. Mineral prospecting and exploitation continued during British colonial rule (1918-1961). By the 1940s gold was well established as the most important mineral with production peaking at an average of four tonnes a year. With the advent of the Second Word War gold production started to decline mainly because of the "war economy" supply priorities. By 1941, mining companies were no longer able to procure machinery and tool supplies, the war effort having taken priority (Roberts, 1986). Labour for mining activities also became very scarce and gold prospecting was banned until the end of the War.

Gold mining further declined with the discovery of diamonds in Mwadui in 1939. In 1945 diamond exports accounted for the largest component of exports. Conversely, gold production had declined to an average of two tonnes a year. There was active government support for diamond mining at this time and diamonds earned more foreign exchange than any other export product. Minerals contributed a record three percent to GDP by 1950 and around 15 percent of total exports (Chachage, 1995). By the end of the 1940s, many of the important gold mines of the war period had closed. The only big mine which continued to operate until the early 1960s and produce well over half of the total gold production was owned by Tanganyika Concessions at Geita. This remained the largest gold mine in East Africa, employing around 2,200 people until it was closed in 1966. Gold mining was also undertaken in Lupa, Mpanda, Buhemba and Nzega by smaller mining companies.

3.1.1 Key features of this period

This period was characterised by state control of mineral resources. During the colonial period, the law in Tanganyika (as Tanzania was then called) was that resources whether above or beneath the ground were the property of the colonial government i.e. the Germans and later the British authority, after 1917. Any company or individual that intended to enjoy mining concessions had to first acquire permission, and which permission was granted at the discretion of the authorities.

Private prospecting for and extraction of various minerals was encouraged. All the same, the different colonial governments had shares or substantial control in the management of mining companies especially those mining metallic ores. The British state-owned companies played a big role in gold and diamond mining, particularly after the Second World War. The demand for raw materials and need to rebuild the economies in Europe during and after the war greatly influenced the exploitation of these minerals.

The Land Ordinance Act (1926) and Mineral Ordinance Act (1929) were introduced by the British colonial government in order to regulate land and related resources thus strengthening colonial government control at the expense of the local ethnic polities. It also strengthened the enterprise of direct rule, where power was centralised under the British Crown. There was minimal artisanal and small-scale mining documented in this period though small foreign players had a presence in the diamond and gold mines around the lake region.

3.2 Phase 2 – The Era of Ujamaa (1961-1979)

As discussed by Chachage (1995), the period immediately after independence in 1961 was devoted to nation-building. President Julius Nyerere abandoned the traditional mixed state-market model in favor of a centralized approach to economic development. Active state involvement was the norm during the period of experimentation with socialism in the sixties and seventies and the state tried to control the sector through the National Development Corporation (NDC) and State Mining Corporation (STAMICO). In the late 1960s and early 1970s, there was a massive drive to resettle rural populations into Ujamaa villages[7] and the broad-based nationalization of all major industries including all the main mines, factories and the banking sector. This period was also characterized by economic fragility and excessive reliance on a few primary commodities such as sisal, tea and coffee.

In order to establish control over the country's land and natural resources, the government introduced the Mining Ordinance (Amendment) Bill in 1969. This bill granted the minister responsible for minerals powers to issue, renew, or refuse to issue mining licences. This piece of essentially arbitrary legislation represented the high point of the Tanzanian State's efforts to control the mining industry and provided the basis for the nationalisation of certain mining enterprises, especially gemstones. Foreign ownership of mining concessions was reversed under Ujamaa as the state exerted control over the land and mining sectors between 1964 and 1976. The Ujamaa[8] policy based on the principles of collective production, equal production and self-reliance and Operation Vijiji (Villagisation) led to more attention being directed at agriculture and a decreased emphasis on mining.

Commercial gold mining declined steadily from three tonnes per annum in the early 1960s to 10 kg in the early 1970s with production officially ceasing in 1972. However the disappearance of large-scale operations and officially recorded production did not eliminate gold mining and other mining activities altogether. Rather, the large number of skilled people experienced in gold prospecting and underground mining methods who were laid off by the defunct companies increasingly moved into artisanal mining and took advantage of the existence of improved alternative markets provided by Asian, Arab and Greek merchants. Most of the gold produced in this way was smuggled into Kenya before being shipped elsewhere. Artisanal mining further intensified with the laying off of more miners in 1976 as a result of a decline in diamond production.

It was during this period that small-scale miners discovered the tanzanite sites in Mirerani (Manyara Region), ruby sites in Matombo, Mahenge and Longido as well as the ruby and emerald sites at Umba River in Tanga region. Their activities were supported by the mushrooming of the jewellery trade in Europe and Asia in the 1960s and `70s. It is estimated that 98 percent of Tanzania's gemstones were exported in raw form to gemstone cutting centres outside the country. The gemstone trade was dominated by licensed and unlicensed dealers and middlemen, including foreigners, who participated in illegal gemstone trading. (Maliyamkono and Mason, 2006).

3.2.1 Key features of this period

- Limited large-scale mining activities as majority of mining interests were put in the hand of government corporations.
- Emergence of small scale mining activities in gold, diamond, tanzanite and ruby.
- The necessary infrastructure to support mineral

7 Ujamaa villages, which regrouped farmers in specific areas for specified types of production. By the mid 1970s more than 8000 villages were created. However traditional resistance and a difficult economic environment led to the breakdown of this idealistic social programme.

8 In order to reconstruct Tanganyika's economy, President Nyerere declared a one party state in 1965 and embarked on a policy of African Socialism which culminated in the 1967 Arusha Declaration that set the principles of Ujamaa: Collective production, equal opportunity and self –reliance.

exploitation and development is lacking.
- A limited number of people engaged in mineral trading (especially export) due to stringent laws on foreign exchange and banking.
- Gemstone smuggling through neighbouring Kenya due to increased alternative markets and high demand in Asia.

3.3 First post-independence Mining Act (1979)

The first comprehensive post-independence mining law was promulgated in 1979. It legally vested all mineral resources in the hands of the State under the NDC and STAMICO. These institutions were given legal powers to engage in exploration, prospecting, research and exploitation. Large-scale mining was very limited and often had to be undertaken in partnership with the government corporations (NDC and STAMICO).

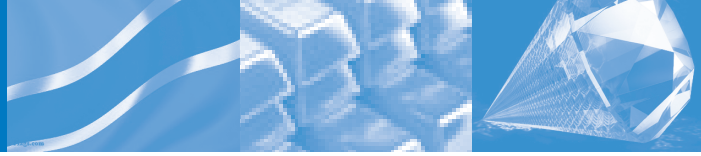
This legal development provided the basis for small-scale mining in Tanzania and gave powers to the minister for minerals to set aside areas exclusively for artisanal miners. In 1980, the government not only formally recognized artisanal mining as an important economic activity, but it also began to earmark large areas of the country for artisanal mining operations. Ministers for Minerals including Al Noor Kassum, William Shija, Abdallah Kigoda and others allocated areas in and around the Lake Victoria Region and Arusha specifically for artisanal mining. The Government also introduced trade regulations to encourage foreign suppliers of mining equipment to do business with artisanal miners. This led to increased investment by Asians in mineral exploitation, value addition and processing in and around Dar es Salaam, Tunduru, Mwanza and Arusha. Artisanal miners were free to operate all over the country and sell their minerals without interference. The modern gold boom in Tanzania began in earnest. Commercial state banks and the Bank of Tanzania bought gold directly from small-scale miners thus boosting the national gold reserves.

In 1998, the ruling Chama Cha Mapinduzi party, in a critical assessment of its twenty-year rule (1977-1997), admitted that the growth of the mining sector in the early 1990s was as a result of the government's decision to start purchasing minerals in April 1990 from artisanal miners through the Bank of Tanzania and its agents, the National Bank of Commerce and the Cooperative and Rural Development Bank. This contributed to the beginning of the growth of some rural economies such as in the Mwanza and Arusha regions. The population of artisanal miners in the country increased rapidly and studies estimated that at its height in the mid-1990s, artisanal mining employed between 500,000 and 900,000 people. (LEAT, 2003)

Government revenue increased exponentially during the artisanal gold boom of the early 1990s: From gold exports worth US$ one million in 1989, revenues rose to over US$ 29 million or nearly 66 percent of total exports in 1991. In 1992 gold fetched over US$ 40 million (Chachage 1995a; Chachage 1995b). The Taylor and Francis Group (United Kingdom), publishers of the world's annual regional surveys, give higher figures and claim that official gold exports earned US$ 26.25 million in 1990, US$ 35 million in 1991, US$ 44.3 million in 1992 and US$ 55 million in 1993.

3.3.1 Key Features

- The law emphasised state control over the mineral resources under NDC and STAMICO.
- Foreign-owned companies were not allowed to hold mining concessions.
- The Minister for Minerals was given the authority to set aside areas specifically for



artisanal and small-scale miners.

- The law also allowed for onward dealing in mineral sales for artisanal miners whose numbers increased to around one million by early 1990s. This meant that the small-scale miners could legally sell whatever they got from their activities.
- Artisanal miners were permitted to sell gold to the Bank of Tanzania which strengthened economy in the mid-1980s.
- The main focus of small-scale mining was gold, diamond and gemstones; there was little engagement in industrial mining.

3.4 Pro-Foreign Direct Investment Period (1997-the present)

The Africa Strategy for Mining Technical Paper of 1992 developed by the World Bank (WB) and the International Monetary Fund (IMF) played a significant role in financing and developing a blueprint for the mining sector in Tanzania through a mineral sector development programme. The main interest of this programme was to oversee the privatisation and liberalisation of the state-controlled mining corporations and the mining sector in order to facilitate the entry of foreign mining corporations. The strategy paper argued for the need to emulate success stories in countries such as Botswana, Gabon, Ghana, Guinea and Niger, where new mining development had been successful mainly as a result of the formation of joint ventures between the private sector and government. This programme, carried out under the WB/IMF directives and support, resulted in the engagement of consultants to carry out legal policy reforms. The mining department was restructured to accommodate these changes and the Mineral Policy Act of 1997 and later the Mining Act of 1998 reflect the direction charted by the reform process. These reforms highlighted mining in Tanzania as a priority economic sector, targeted to grow to 10 percent of GDP from 1.5%. A strong, vibrant, well-organized private sector was envisioned to enable this process.

Whereas the previous Mining Act of 1979 required mineral- rights holders to present a plan for local procurement of goods and services, this stipulation was entirely absent in the 1998 Mining Act. This Act also provided many subsidies to foreign investors in the form of incentives including five- year tax holidays, 100% transferability of profits, 100% foreign ownership, exemptions from a wide range of taxes and from environmental impact assessments. The law also provided for ministerial powers to enter into Mining Development Agreements (MDAs) with private foreign companies to develop mineral potential. Here the minister for minerals could enter into a specific private agreement with an investor, without being restricted by other legal requirements. The minister was allowed to give special preference including tax exemptions and environmental impact assessment exemptions privately. While providing flexibility for the minister during negotiation, this contributed to making contracts more difficult to monitor or question. Public Accountability was thus undermined in this process. This era will be remembered for its encouragement of foreign players through a host of incentives but also for its scant attention to the artisanal small-scale miners.

3.4.1 Key features of this period

- Opening up of the sector to allow Foreign Direct Investment through the introduction of incentives under fiscal policy reforms.
- Government's role changed from that of being a key player in mining industry to that of being a regulator. In short, this period saw the total withdrawal of the Tanzanian government in holding stakes in the mining business.

- Allowed for 100 percent transferability of profits and holdings to offshore accounts.
- The minister in charge of mining was given powers to enter into development agreements with private mining companies and to give exemptions on duties and taxes.

On the whole the different periods in the history of Tanzania's mining industry demonstrate how different leadership and management approaches to the industry have produced different outcomes and impacts for Tanzania. The colonial governments ensured state control of the resources. Later, however, private ownership was encouraged and companies given exclusive rights to large mining areas leading to a rise in mineral exploitation and income from the sector, a phase that was disrupted by the Second World War.

The Ujamaa period in the 1960s was characterised by the experiment with socialism that mandated State control of the mining sector. This did not work well for exploitation and incomes from the mining sector remained low mainly due to lack of the necessary capacity and technical skill in the country at the time.

The post-independence Mining Act of 1979 which combined state-management of resources, with minimal foreign control and encouraged small-scale artisanal mining appears to have been the most successful approach so far, as a good number of Tanzanians were employed by the sector during this period. Significantly, although the mining methods deployed had their disadvantages – as discussed later in this report – the income from mining contributed to providing improved livelihoods and contributed to the growth of towns such as Arusha and Mwanza.

The current pro-market period that has encouraged private ownership of Tanzania's resources by foreign investors has proved to be problematic as evidenced from the public outcry against the 'theft' of Tanzania's resources, loss of livelihoods as a result of evictions from mineral rich areas and other social, economic, political and environmental problems.

International multilateral organisations and the ERI in Tanzania

4

PHOTO: © Uli Hamacher/Dreamstime.com

4.1 Introduction

Following the liberalisation of the Tanzanian economy, a number of multilateral and bilateral players were encouraged to flock into the country and participate in the mining sector in various ways and with varied interests, influences and impacts. The influx of foreign investors appears to be as a result of competition between the new and emerging economic powers as well as competition between old and new architects of liberalisation. Behind what appears to be a typical case of resource capture is a struggle for political hegemony, reminiscent of Europe's Great Powers' 19th century scramble for Africa's extractive resources. Today, however, the operative word is globalisation. This situation has also been interpreted as an attempt to introduce another era of colonialism in Tanzania that would ensure major decisive positions for the dominant players especially regarding the use of prime land and profit accruing from the mining of Tanzania's resources (Rubara n.d).

The interests of international and multilateral organisations in mineral- rich countries is not unique to Tanzania. Various methods have been employed by the international community and various multilateral organisations to ensure participation in the extraction of resources in Africa. Europe has laid its strategies in the region by fast tracking Economic Partnership Agreements (EPA) and fragmenting the continent into smaller economic units based on strategic commodities or relative weaknesses of the region. This has

often resulted in diminished potential for collective bargaining. The European Union (EU) has also made it its responsibility to harmonise the mining policies of the Southern Africa Development Community (SADC) and to provide what it calls technical support under its trade and investment promotion in the region. Canada has also positioned herself in the mining industry through its Foreign Investment Promotion and Protection Agreements (FIPA). Canadian mining interests abroad are at the root of that government's recent push to sign FIPA agreements with 23 developing countries. The World Bank has played a major role in Africa's extractive industry by advocating for liberal mining codes such as the one that was introduced in Ghana in 1986. This code includes enacting "appropriate rules" giving access to land, exploration licences and mining rights, "appropriate" marketing and export and "appropriate labour regulations"(Gibbon, 1995). The Bank's African mining strategy (World Bank 1992) advocates for outright privatisation of state-owned mining companies and complete withdrawal of the state from mineral marketing functions.

Tanzania should ensure that it fully understands the implications of the agreements it negotiates as some of these may directly contribute to the persistence of poverty and precipitate new environmental, social, political and economic problems.

4.2 Role of Canada in Tanzania's ERI

Canada's increased mining investment in Tanzania in the 1990s should be seen in the light of the liberalization of the Tanzanian economy and opening up the mining sector to FDI, the result of the 1998 Mining Act. Currently, those companies venturing into Tanzania have an immense commercial presence in Canada and are among the 1,223 mining companies listed on the Toronto Stock Exchange. Canadian mining interests are mainly in gold around the Lake Victoria region. They have four major mines i.e. Bulyanhulu, North Mara, Tulawaka and Buzwagi and some interest in oil and gas exploration on the Tanzanian coast at Lindi and Mtwara.

In 2007, Africa is believed to have contributed up to 17 percent of Canada's US$ 85.9 billion overseas mineral resource investments. The heavy presence of Canadian companies in Africa has also been linked to change of foreign and investment policies within Canada, which led to her transformation from a 'host investment country' to a big foreign investment player. Canada has been repositioning its strategy for Africa's mining sector by marketing one of its key instruments in Africa: Foreign Investment Promotion and Protection Agreement (FIPA). These are government-to-government agreements, which serve as a clearinghouse for the transmission of Canadian corporate interest in foreign countries. Canada has so far signed about 23 such investment agreements with a number of developing countries, and is set to extend the policy programme to Africa beginning with Tanzania, Madagascar, Ghana and Nigeria.

4.2.1 Foreign Investment Promotion and Protection Agreements

As examined by AIMES (2009), while the proposed reform initiatives are being discussed nationally and are set to be presented to Parliament in Tanzania, the Government of Canada has begun negotiations with the Government of Tanzania to sign the FIPA bilateral investment agreement, a decision that will neutralise any efforts to improve mining policy, contracts and laws in the country. AIMES further reveals that experience has shown that bilateral agreements between individual African countries and their Northern counterparts

have had a 'lock-in effect' working against the interests of African countries. They thus advised the governments of Canada and Tanzania to suspend negotiations on FIPA until the Tanzanian domestic mining policy reforms are concluded in order to avoid further perpetuation of poverty in Tanzania. This suggestion was made taking into consideration the size of Canadian mining interest in Tanzania, and the belief that this agreement would further promote, entrench and protect the interest of Canadian companies already operating in the country (Kwesi Obong, 2009).

4.3 The EU Economic Partnership Agreements

The European Union's trade and development agreements with African, Caribbean and Pacific (ACP) countries also known as Economic Partnership Agreements (EPAs) are being driven by the EU's anxiety to maintain competitiveness in relation to emerging economies such as China and India in securing and maintaining cheap natural resources and energy supplies despite their knowledge that they would have negative implications on these poor countries (Ronnie Hall, 2008). The EPAs are designed to pressurise ACP countries to open their markets and liberalise 80 percent or more of their tariff lines. The flood of European imports has the effect, Hall argues, of undermining key development goals, particularly in domestic manufacturing sectors. He reveals, for instance, that one of the EC's own Sustainability Impact Assessments predicts that EPAs could accelerate the collapse of the manufacturing sector in West Africa.

Hall (2009) further argues that liberalising investment in the extractive resources industry could have a dramatic effect on the environment and food security as countries agreeing to liberalise investment would have to hand over more rights to foreign corporations to exploit forests, fisheries, agriculture and other natural resources. This could result in even more forests and small farms being cleared to make way for logging, mining and export oriented agriculture. EPA's like other trade liberalisation agreements effectively commodify natural resources, relegating them to the status of merchandise rather than regarding them as a public good that needs to be protected. Trade liberalisation is about opening an increasing number of economic sectors by limiting state intervention. As a result, countries find themselves locked into a virtually irreversible economic model based on the export of raw materials. Moreover through EPAs, the EU would remove export restrictions that are used by countries to limit or prohibit exports of unprocessed raw materials, effectively handing over equal rights to Europe to exploit other nation's natural resources.

4.4 The EU-SADC Investment Promotion Programme (ESIPP)

This is a joint initiative between the European Union and SADC to stimulate private sector growth which is considered essential for prosperity and economic integration in the region. This programme is financed by the European Development Fund and focuses on several key sectors including mining, tourism, light engineering and agro-industry. ESIPP brings potential partners together through relevant sectoral business-to-business meetings at which one-on-one contacts facilitate business deals between SADC and EU/third country entrepreneurs.

4.5 The Role of the Bretton Woods Institutions in Tanzania's Extractive Resource Industry

The World Bank and the International Monetary Fund have played significant roles in the general economic path taken by Tanzania since the 1980s

and were central in developing the blueprint for the Tanzanian mining sector and the financing of large-scale mining activities. The main reasons for their concern with the lack of economic growth and development in Africa some three decades after independence were given as:

- Political rather than economic criteria had guided investment choice, location and management;
- Regulations and wage controls raised costs of production and undermined competitiveness;
- High costs passed onto downstream users of the output due to inefficient but heavily protected basic industries;
- Expatriates being removed before qualified nationals were available to take their place; and Private investment was crowded out by powerful state-controlled monopolies (World Bank, 1989: 110-111).

They therefore rationalized that this could be dealt with by promoting programmes that focused on the privatization of state-controlled corporations, removal of subsidies, tightening of government budgets through cutbacks on social spending, reforms in tax codes and liberalization of the sector to allow for the entry of foreign mining corporations. The World Bank (1989) emphasised the strategic importance of Foreign Direct Investment, and repeated attention was drawn to FDI as a critical component of formal private sector capital. Foreign capital was portrayed as the bearer of innovation, technical know-how and market intelligence. Dropping restrictions on foreign investment was thus a key ingredient of ensuring an "enabling environment".

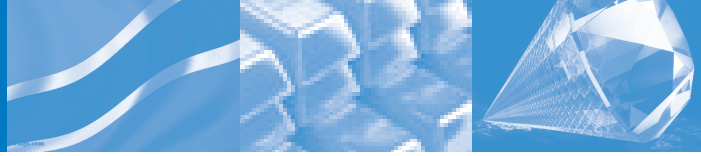
Significantly, World Bank strategies were hostile towards small-scale or artisanal mining. The Bank downplayed the latter's contribution to GDP and employment and instead argued that artisanal mining was responsible for problems of law and order, safety, environmental degradation and loss of potential government revenue.

4.6 The Rise of China and India and their Impact on Tanzania's Extractive Resource Industry

Increasing demand for raw materials from China and India has contributed to the expansion of the neo-liberal agenda around extractive resources in Africa and the rising prices and demand for raw materials between 1999 and 2006. China has turned to Africa as a favourable supply source with a significant increase in the consumption of various metals and minerals which have been estimated at some 20 percent of total world aluminium flow; 23 percent of alumina, 20 percent of copper, 10 percent of nickel, 22 percent of zinc, 30 percent of crude steel, and one third of the world's iron ore (World Mining Stocks, November 2005).

Since 2000, more than 700 Chinese companies of varying sizes have set up operations in Africa. China's trade with Africa increased threefold, making China Africa's third largest trading partner. A large share of Chinese investment is going to the extractive sector, in particular solid minerals and crude oil. Chinese mining companies are shopping for platinum in Zimbabwe, copper in Zambia, iron ore in South Africa, gold in Ghana, coal and nickel in Tanzania, oil in Gabon, Angola and Sudan.

India has also raised its stake in Africa's extractives to meet its industrial demand for raw materials. Indian mining companies have invested in various countries either in partnership or take-overs. For example, Tata has taken over Highveld in South Africa and the Indian state company, National Mineral Development Corporation (NMDC), is



investing in Kahama Gold Mine, as well as soda ash in Lake Natron in Tanzania. Smaller privately owned Indian companies are involved in mining and processing sapphire, ruby and other gemstones in Tanzania.

4.7 South Africa - SADC Power

The post- apartheid regime in South Africa took advantage of the conducive political environment in the SADC region to expand its industrial and mining interests. South African investment in the region was seen then as a way of paying back for the political support from the frontline nations who supported the anti-apartheid struggle. Emphasis was put on consolidating this regional friendship in the SADC economic bloc that created a potential market of over 238 million people from 14 states, namely Angola, Botswana, DR Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. One of the major areas that saw a rise in investment interest was minerals and oil exploitation. The region has a rich endowment of world-class deposits of coal, chromite, gold, diamonds, platinum, nickel, silver, copper, uranium and various gemstones. The SADC mining sector greatly benefited from rising mineral prices in the world market and the cessation of civil strife in Mozambique, Angola and the unpredictable DR Congo. South Africa accounts for 78 percent of the SADC region's overall GDP with industrial development surpassing all the other nations combined. This explains its financial strength and great appetite for minerals. These factors have resulted in markedly increased South African investor interest and a more lively exploration scene across the region. South Africa enjoys a heavy presence in Tanzania's gold, diamond and tanzanite mining industry. Tanzania continues to keep its old relationships with the South African freedom fighters to whom it extended an open-door policy after the end of Apartheid. It was hoped that this relationship with the new South Africa would trigger the flow of foreign direct investment, thereby creating employment and accelerating growth, especially of Tanzania's mining industry.

4.8 The Everything But Arms Initiative

This provides preferential access into the EU for the world's 48 least developed countries, including Angola, DR Congo, Lesotho, Madagascar, Malawi, Mozambique, Tanzania and Zambia. It grants duty and quota free access to EU markets for all products manufactured in these countries except for weapons.

Tanzania has managed to atract increasing international interest because of its rich mineral endowment and the desire by the international community to partake in this. Due to poverty and lack of capacity, Tanzania has to a great extent received advice and partnered with some of these countries, bodies or multinationals. Unfortunately, the objectives of these partners have not always been benign. Tanzania needs to pay more attention to the agreements that it signs and those it chooses to partner with if it is to protect its own national interests.

Governance and legislative frameworks in Tanzania's extractive resource industry

5

PHOTO: © Courtesy

Tanzania's mineral sector is guided by various policies, rules and regulations closely connected to its historical, political and economic dynamics at both national and international level. While some of the shifts represent recognition of failure of the previous existing policy prescriptions and frameworks, the most recent shifts have aimed fundamentally at repositioning and consolidating the neo-liberal agenda around Africa's natural resources. Some of the policies and acts that currently govern the ERI in Tanzania and guide and direct mineral development and exploitation are the 1997 Mineral Sector Policy and the Mining Act (1998).

Up to 1967, the government pursued market economy policies and mining was almost entirely left in the private sector. Following the Arusha Declaration in 1967, the government started to promote state-monopoly. It acquired majority shares in mining companies and restricted foreign ownership of property. The first post-independence policy reforms in Tanzania were influenced by the push for the full control of natural resources. President Nyerere had a larger vision of emancipation and self-reliance through nationalisation of most large industries and services. In the 1970s, more emphasis was put on creating self-sufficiency through centralised service provision. There were tougher controls over the foreign exchange and cash transfer putting the sole responsibility of importing and exporting in the hands of national parastatals or other sanctioned organisations. In 1972, the STAMICO was established to operate the mining sector.

From the mid-1980s, Tanzania entered a period of structural adjustment. Under President Ali Hassan Mwinyi, economic reforms opened doors to liberalisation of the economy and fast-tracked entry of foreign capital. Major legal and policy reforms were undertaken to facilitate this development in the mining sector backed by the Bretton Woods institutions. The policy and legal reforms instituted in the 1990s have been

credited for the influx of foreign direct investment in the mining sector. Some observers (Shivji, 2007a and b) have argued that the reforms have favoured foreign investors at the expense of local and small-scale miners. In order to encourage investment, the National Investment Promotion and Protection Act was put in place in 1990, replacing the Foreign Investment Act of 1963. The Public Corporation Act, which came into force in the mid 1990s, took away the authority of parastatals over their former subsidiary companies requiring that they be self-financing. The Act specified petroleum exploration and mining as priority areas to be opened for foreign investors and provided for incentives and guarantees. To further facilitate investment, the government set up an Investment Promotion Centre. In May 1990 the ministry responsible for minerals liberalized gold mining and selling. From then on, anyone could sell gold to government appointed banks with no questions asked. Small-scale (artisanal) miners were likewise encouraged to acquire claims. Similar steps were taken by the government with respect to the diamond industry in 1992.

The World Bank played a prominent role in facilitating Tanzania's adoption of the liberal Mineral Policy in 1997 that encouraged private sector leadership in operating, managing and ownership of mineral enterprises in Tanzania. The legal, fiscal regulatory and institutional reforms that followed were designed to encourage foreign and private sector leadership in the mining sector. The policy restricted the government's role to that of the sector regulator, promoter, facilitator and service-provider rather than directly engaging in productive activities.

5.1 The 1997 Mineral Sector Policy

The 1997 Mineral Sector Policy was a result of $13.9 million, five-year mineral sector development project that was financed jointly by the World Bank and the Tanzanian government. It marked the dawn of a new era in Tanzania's mining sector. This mineral policy defined the legal regulatory and fiscal regime under which the private sector would be the key player. The adoption of the policy by the government in October 1997 was an important step in the legal, fiscal regulatory and institutional reforms that followed in the sector. (Maliyamkono and Mason, 2006).

Arguing that the primary objective of the project was to attract investment for exploration and provide the government with the necessary technical, managerial and material support for implementation of its new (private sector-oriented) mining development strategy, the policy emphasized that the government's role was to regulate and promote the mining industry rather than being directly involved in the exploration and exploitation of the minerals. The government also had the responsibility of developing the mineral sector and increasing its contribution to the economy to 10% of GDP by 2025. Meanwhile private companies (both foreign and local) would take the lead in operating, managing and owning mineral enterprises in Tanzania. The policy also outlined strategies for strengthening community participation and involvement in mining.

5.1.1 Features of the Mineral Sector Policy 1997

- Private sector-led mineral development.
- Role of the government limited to policy and legislation formulation, revenue collection, maintenance of geo-technical data for promotional purposes, provision of extension services to small-scale miners and administration and inspection of mining activities.
- Recognition of the value of greater involvement and participation of local communities in the

implementation of mining projects. It is noted that greater participation of local communities contributes significantly to the sustainability of the project. The policy outlines the following strategies for strengthening community participation and involvement in mining:

- Sensitising the local communities on the advantages of utilising advanced technology, and large-scale investment in mineral production.
- Companies involved in large scale projects were required to undertake social impact analyses on the communities and project areas and explicitly incorporate results in the project viability and draw up programmes for addressing negative impacts;
- Establishing a framework for timely promotion of good relations with the population of mining localities;
- Encouraging mining companies to contribute to local economic development by using local inputs whenever this is economically feasible;
- Facilitating the establishment of strategic partnerships between mining companies and the local community; and
- Fostering arrangements, which promote collaboration between large-scale mining companies and small-scale miners for mutual benefits (URT 1997: 26).

5.1.2 Regulations for Environmental Management and Protection

The 1997 Mineral Policy recognised the need to protect the environment in order to ensure sustainability of mining and to balance protection of the natural environment with that of social and economic development. It recognised that this aspect had been neglected in the past due to lack of coordination and insufficient operational funds and inadequate expertise that resulted in an uncontrolled extraction of minerals, use of unsafe mining methods and thus contributing to appalling living conditions in mining communities. The policy thus set out to address these problems by reducing or eliminating the adverse environmental affects of mining, improving health and safety conditions in mining areas and addressing the social issues affecting women and the local community. (URT, 2007)

The policy states the government will foster the use of best practices in environmental management systems in mining development. The proposed strategies to achieve this include:

- Drawing up comprehensive environmental management programmes for the mining industry.
- Establishing effective environmental regulations and putting in place procedures for monitoring compliance.
- Setting up and strengthening institutional capacity- especially the field offices (zonal and district mines offices) for monitoring and enforcing environmental regulations requiring new projects to carry out baseline environmental studies and preparing environmental impact assessment and environmental action plans.
- Instigating environmental audits to evaluate the performance of existing mines and identify areas for improvement.
- Specifying procedures for determining environmental liability.
- Providing rules for setting up reclamation of funds to reinstate to alternate uses after mining.
- Setting appropriate guidelines to allow for mining in restricted areas such as forests, national parks, sources of water and other designated areas.
- Abating the use of toxic chemicals and pollutants by promoting of mining in restricted

areas such as forests, national perks, sources of water and other designated areas.

In 1999, the government enacted the Mining (Environmental Management and Protection) Regulations, which required the minister responsible for mining to establish a fund, in collaboration with the mining companies, for environmental restoration after the completion of mining activities. These regulations were further enforced by the 2004 Environmental Management Act (EMA).

However, according to JMT (2008), the minister has not yet established such a fund. Furthermore, the report of the Presidential Commission on Mining notes that the National Environmental Management Council (NEMC), which is required by law to oversee environmental issues in the mining areas, has admitted that it has limited capacity to do so.

5.2 The 1998 Mining Act

The 1997 Mineral Policy was followed by a revision of the 1979 Mining Act to accommodate changes in government policy, a process that resulted in the 1998 Mining Act that became effective in August 1999. This act envisaged small and large-scale mining being developed side by side. Tanzanian nationals were given exclusive rights to key roles in the small-scale mining sector (mine claim-holder, broker, and dealer). Large-scale mining, on the other hand, was opened to international companies with the requisite capital and experience. As noted in URT (2005), the Act also established different categories of mining licences discussed in detail in (Annex II)

5.2.1 Features of the 1998 Mining Act 1998

The salient features of the 1998 Mining Act include:

- **Investors shielded against nationalisation:** This rose from fear of what happened after independence under the Nyerere Regime when the government nationalised the industry.
- **Ability to transfer and mortgage mineral rights:** Under this Act, small-scale mineral rights can be transferred and mortgaged. This will enable miners to raise finance for project development and secure their investments. Since the enactment of the Mining Act (1998) small-scale miners in Tanzania have been able to sell their properties either through outright sale or through development agreements. In some cases this has enabled credible joint ventures to be formed between small and large-scale operators and has also helped in the mobilization of investment finance by small-scale miners. According to Shivji, (2007) "mining licenses have in effect become property to be protected, used, abused and disposed of as the holder of the license may wish". The holder of a mining licence has many rights and virtually no obligations while the government has many obligations and virtually no rights. In some cases, this concession has also encouraged speculation on mineral titles.
- **Allows the Minister responsible to enter into mineral development agreements:** While the Minerals Act of 1979 expressly prohibited officials of the Ministry in charge of minerals from holding shares in mining companies in order to discourage corruption and conflicts of interest, this requirement was dropped in the 1998 Act. Section 10 of the Act allows the Minister to enter into development agreements with holders of mining rights and grant them special mining licences to conduct mining operations. Such agreements are "binding on the United Republic of Tanzania" and guarantee the fiscal stability of long term mining projects, by reference to the law in

force at the effective date of the agreement, with respect to the range and applicable rates of royalties, taxes, duties, fees and other fiscal imposts and the manner in which liability in respect thereof is calculated' and 'may contain special provisions relating to the payment of any such fiscal impost to take effect in the event of a change in the applicable law'.

Shivji (2007a) discusses the implication of the above clause. It means that the tax regime existent at the time of signing of the agreement remains in effect throughout the period of the agreement even if Parliament changes that regime by a subsequent law. What this means under Section 10 of the Act is that any changes in the law subsequent to the agreement signed affecting taxation of mining companies have no effect on the company. Thus, the contract between the Minister and the foreign company can be said to override the law and the will of the people.

- **Stabilisation Clauses:** The Act introduced stabilisation clauses that deter government from possible review or upward adjustment of terms therein which guarantee the fiscal stability of a long-term mining project.
- **Small-scale mineral rights limited to nationals:** Under the Mining Act (1998), mineral rights for small-scale mining; as well as licences for gemstone mining, primary prospecting and primary mining are limited to Tanzanian citizens. This is done to support the development of local industry and to alleviate poverty. However, it has been noted that the sector needs financial and technological inputs, most of which are not available locally. A blanket ban on foreign participation might limit the sector's ability to access finance and technology through joint ventures and other similar arrangements. Hence, the Tanzania Mining Act requires that when the proprietor is a company, foreign participation can be allowed as long as Tanzanian nationals hold majority shares in the company. There are dangers in this concession in that foreigners may use it to penetrate the small-scale mining sector as has happened in Mahenge with Thai nationals (Chachage, 1995).
- **Possibilities of upgrading mineral rights:** Due to limitations of foreign participation in small-scale mining, it is sometimes necessary for small operators to upgrade to another level in order to attract more investment in their ventures. Transition from one category of small-scale mining to another and even to large-scale is important since it allows the sector to grow and contribute to building confidence amongst participants. The legislation in Tanzania states clearly that the holder of a Primary Mining Licence "may apply to the Commissioner to convert the Licence or Licences to a Mining Licence or Gemstone Mining Licence". These are categories for large-scale operations. Also, in converting to a licence issued to large-scale operators, small-scale miners are allowed under the law to amalgamate their licensed areas into one large block.
- **Designation of specific areas for small-scale mining:** The legislation in Tanzania gives the Minister responsible for mining the power to declare an area "a designated area for small-scale operations" if it is considered to be in the public interest to encourage prospecting and mining by methods suitable for small-scale mining. Once an area has been declared a "designated area" by the Minister, the Commissioner for Mineral Resources is then required to divide the area into numbered blocks, publish a map of the divided area for public information and exhibit a copy at the zonal mines office responsible for the designated area. The Minister then appoints an Allocation Committee for the designated

area, composed of the following:

- The District Commissioner who presides as the chairman;
- A Member of Parliament for the area;
- The Zonal Mines Officer;
- The Chairman of the local council; and
- Three persons from the Regional Secretariat.

The Allocation Committee is only responsible for allocation of areas to eligible persons who must make their application and pay the required fees for primary mining licenses through normal channels. In allocating the areas, the committee is expected to take into consideration the following:

- Technical competence of applicants;
- Relevant experience of applicants;
- Financial resources of applicants; and
- Ensure that a reasonable part of the land is allocated to people living in the vicinity or in the missing area.

- **Foreign procurement of locally available goods:** The Act allows for the procurement of foreign goods even if the same goods are available locally. Shivji (2007a) notes that the Act does not impose any conditions related to development objectives – for example, training and employment of Tanzanians, sourcing of local goods and services, adding value to minerals or generally creating forward and backward linkages in the economy to stimulate other sectors. Exemption from import duty and Value Added Tax (VAT) on equipment and essential materials up to the anniversary of start of production, thereafter a 5 percent seal applies.
- Other financial incentives offered include: depreciation allowances of 100 percent, repatriation of capital and profit directly related to mining and 100 percent foreign ownership of the companies

5.2.2 Fiscal Incentives in Tanzania's mining policies

The tax regimes applicable to mining in Tanzania are set in the Mining Act of 1998, National Investment Promotion and Protection Act of 1990, The Tax Act of 1973 and its amendment the 1992 Finance Bill. The interpretation of the combined effects of these laws could be summarized as follows:

- Tanzanian mining law pegs a royalty rate of three percent on gold and gemstones and five percent on diamonds. This amount is calculated as a proportion of their net back value addition costs and not on the total production value of the minerals.
- The Mining Act of 1998 also defers payment of this royalty if the cash-operating margin (company revenue minus operating costs) falls below zero.
- Mining companies pay five percent import duty compared to ten percent paid by non-mining investors for the first year of operations. No duty is payable after the initial set up year.
- Five percent customs duty for equipment used for mining exploration is allowed.
- Mining companies enjoy zero import duty on fuel.
- The law allows mining companies unfair advantage over other companies through capital gains tax exemption.
- There are VAT exemptions on imports and local supplies and services.
- Mining companies are allowed to maintain their accounts in foreign currencies and keep foreign operation accounts making it difficult to track actual investment and liabilities.
- Mining companies deduct 100 percent of their depreciation costs from their taxable profits for the lifespan of their mining operations.
- Mining companies pay stamp duty at 0.3 percent compared to four percent payable by other investors.

- Mining laws allow 100 percent transferability of profits to overseas accounts.
- Local governments have no right to impose taxes within their locality though they run operations in their areas. While this is considered double taxation, the exemption fails to take into account that all other local citizens and companies are still subjected to the so-called double taxation.

5.2.3 Taxation Policies in Tanzania's ERI

Taxation policies should be able to balance government/national priorities and the interests of the industry. Unfortunately, these are sometimes overtaken by the interests of bilateral and multilateral players. Taxation plays a key role in the industry's ability to obtain and maintain a social licence to operate in the host countries while providing the governments with control and sovereignty over natural resources and revenues for development. The debate around taxation of mineral resources has several dimensions. These include the level and structure of taxation, revenue and expenditure, and accountability and transparency issues. The structure of taxation (royalties, duties and income taxes) is regarded as crucial in attracting Foreign Direct Investment in mining investment in the Tanzanian context. It was also hoped to stimulate development of the industry through increased revenues, skills development and employment.

The Mining Act of 1998, National Investment Promotion and Protection Act of 1990, Investment Act of 1997, The Tax Act of 1973 and its amendment, the Finance Act of 1992, define the legal basis for tax incentives in mining. These incentives, however, are widely viewed by Tanzanians as being favourable towards the multinational companies at the expense of the government and communities.

Taxing Mining Companies: a thorny question

Several government reports have blamed the investment incentives to the mining industry for heavy losses in government revenue. A forensic audit by a British firm, Alex Stewart Assayers (ASA) on gold mining showed that the mining companies overstated their liabilities by about US$ 502 million leading the country to lose revenues of over US$ 132.5 million.

In an interesting twist, after a three year investigation by the Prevention and Combating of Corruption Bureau (PCCB), three former top officials, including two former MPs were charged in court in November 2008 for their role in hiring ASA with no open tender to audit gold mining company activities in Tanzania from June 2003 to August 2007 at an average rate of about US$1m a month. The case is ongoing

The Tanzanian Government has since hired most of its citizens who previously worked with the controversial gold auditing firm Alex Stewart Assayers and it is estimated that they have helped the government recover at least TShs 2.5 billion said to have been underestimated by Geita Gold Mine.

(see http://allafrica.com/stories/200909180592.html).

A Parliamentary Accounts Committee report found that the mining companies declared losses to a tune of US$1.045 billion between 1998 and 2005. The companies have been noted to inflate production costs while declaring lower market values to avoid paying corporate taxes and royalties amongst other taxes.

5.2.4 Loopholes in the 1998 Mining Act

(1) Taxes and Transfer Pricing

A mining sector review committee chaired by a former deputy minister for energy and minerals, Lawrence Masha, revealed in 2006 that mining companies in Tanzania were using legal loopholes to avoid paying billions of shillings in taxes. At least six large-scale mines in the country are believed to have been taking advantage of existing loopholes to evade taxes by continuously declaring commercial losses while actually posting profits. The Tanzania Revenue Authority also pegs the tax losses at US$207m (approximately 250 billion Tanzania Shillings) for the 2006-7 period.

The review committee proposed several

measures to increase government returns from the industry: an increase in gold, copper and silver royalties from 3 to 5 percent, an increase in uncut diamond royalties from 5 to percent and an increase from 3 to 10 percent for uranium. Another recommendation was to change the taxation system to 'gross value' from 'net back-value' – something already practiced in other countries such as Ghana and Zambia. Reviews of contracts have already taken place in the neighbouring Democratic Republic of Congo and Zambia. These new measures have significantly increased the tax burden for companies in the industry, particularly in Zambia.

(2) Stabilisation clauses

Stabilisation clauses act as a contractual insulation against fiscal legal changes during the lifespan of an agreement. As a guarantee to profitability and stability of their projects, investors normally insert a stabilisation clause providing that the terms will not be altered unilaterally or terminated by the State. In Tanzania the stabilisation clauses exists in all mining development agreements signed since 1997. These are normally carried over the entire lifetime of the agreements that average 25 years with options for renewal of the same length.

This practice has raised concerns due to its protection of investor rights at the expense of human rights, environmental rights, and labour and health standards. Application of stabilisation clauses limit Tanzania's powers to seek more benefits from the contracts in the case of anomalies or upward surging of metal prices. There are two types of stabilisation clauses commonly used in FDI contracts. In the case of Tanzania these are freezing clauses and economic equilibrium clauses.

(3) Freezing clauses:

These ensure that the existing legal-fiscal regimes at the time of signing contracts do not change over the lifespan of the project and that subsequent legislation does not apply to the relationship between the parties to the agreement.

(4) Economic equilibrium clauses:

These require the government to compensate the investor should the government enact any legislation or take any administrative measures that aggravates the costs of the project. They thus restrict the scope of subsequent legislation whilst mitigate its impact on existing contracts.

5.3 The Third Phase Government (1995 – 2005)

The World Bank assisted Mineral Sector Development Technical Assistance Project also attempted to address issues of institutional capacity building for effective supervision, regulation and monitoring of the sector. Maliyamkono and Mason (2006) list the important milestones in the mineral sector reform and development during the Third Phase Government as follows:

- Government approval of the 1997 Mineral Sector Policy.
- Enactment of the Financial Laws (Miscellaneous Amendments) Act of 1997, which provides for improved fiscal administration for the mining sector.
- Adoption of the New Mining Act (1998), providing incentives for private sector mineral sector development.
- Approval and implementation of a new organisational structure of the Ministry of Energy and Minerals in April 2001 to fit with these changes.
- Approval and licensing of six new large-scale gold mines with combined annual gold production capacity in excess of 50 tonnes.
- Regulation of gemstone mining and trade in 2005 to encourage value-added gemstone processing activities within the country.

Other mining regulations include:

- The Mining (Mineral Rights) Regulations 1999;
- The Mining (Mineral Trading) Regulations 1999;
- The Mining (Safe-Working and Occupational Health) Regulations 1999;
- The Mining (Environmental Management and Protection) Regulations 1999;
- The Mining (Salt and Iodation) Regulations 1999;
- The Mining (Provisional Licences) Regulations 1999;
- The Mining (Mirerani Controlled Area) Regulations 2001;
- The Mining (Diamond Trading) Regulations 2002;
- The Mining (Gemstone Board) Regulations 2004; and The Mining (Dispute Settlement Resolution) Rules 1999

5.4 The Nature of Contracts in Tanzania's ERI

By the end of 2008, the Tanzanian government had signed seven mining development agreements with seven companies. As shown in table 7 below, five were signed before the Mining Act 1998 came into force in July 1999. Of these, three were signed before the Mineral Sector Policy was set in 1997. Lissu and Curtis (2008) reveal that these agreements were made hurriedly before the enactment of the Mining Act at a time when the Government had not yet formally set out its development strategy for long-term development objectives and there were no administrative structures to monitor them. This could be interpreted as showing a lack of dedication on the part of the leadership to ensure fairness and proper use of the mineral resources for the benefit of all Tanzanians. The Policy Forum (2008) also raises the concern that most of the current mining agreements were concluded before the Government of Tanzania had formally set out its development strategy for the sector and therefore may not take into account long-term development objectives as later identified by the Tanzanian Government in the 1998 Mining Act which came into force in July 1999. This is made more complex by the fact that the current Act ensures that agreements signed between the mineral rights holders and the government under the 1979 Act remain effective and endure.

Table 7: Mining agreements signed by end 2008

Year	Company(ies)	Mining project
1992	Kagera Mining Company Ltd.	Exploration and development of nickel. Cobalt, lead, zinc, copper, and associated minerals (Kabanga nickel project)
1994	Kahama Mining Corporation Ltd.	Bulyanhulu gold mine
1997	Resolute Ltd., Samaz Resources Ltd., Resolute Tanzania Ltd., and Mabangu Mining Ltd.	Golden Pride project
1999	Samaz Resources Ltd & Ashanti Goldfields (Tanzania) Ltd	Geita gold mine
1999	Africa Mashariki Gold Mines Ltd	North Mara gold mine
2003	Pangea Minerals Ltd	Gold mine at Tulawaka, Biharamulo
2007	Pangea Minerals Ltd (subsidiary of Barrick Gold Ltd.)	Gold mine at Buzwagi, Kahama

Source: Policy Forum, 2008 p.2

The companies listed above appear as the original parties to the agreements. However, a number of the rights have since been assigned to other companies through various mergers and acquisitions. For example, Barrick Gold Corporation (Barrick) acquired Pangea Goldfields Inc. in 2000. Through Barrick's acquisition of 97 percent of Sutton Resources Ltd in mid-1999 it has taken over the latter's interests in the country through Kagera Mining Company Ltd and Kahama Mining Corporation Ltd. Afrika Mashariki was purchased by Placer Dome Inc. in 2003 and was in turn purchased by Barrick in 2006. Barrick, a predominant player in the sector also owns Buzwagi and maintains an interest in Kabanga Nickel project in Tanzania. (Policy Forum, 2008)

5.4.1 Content and Character of Mining Contracts

In an attempt to understand the mining agreements between the companies and the GoT and their implications, various authors have analysed different contracts. Policy Forum (2008) has examined the Geita, Tulawaka and Buzwagi, agreements in some depth. Lissu and Curtis (2008) have similarly analysed the Buzwagi contract in depth. Their observations and analysis of the contracts are comparable. Although the agreements are signed separately and may vary in various areas, their content is similar and is a good indication of the terms and conditions that govern the major mines in the country.

The agreements provide rights and benefits to both the Government of Tanzania and the mining companies. However, there has been great concern in Tanzania over the nature of the contracts and allegation after allegation has been made of how mining companies have colluded with Tanzanian authorities to commit the country to lopsided contracts that have allowed foreign investors to extract billions of dollars worth of mineral wealth from Tanzania at the expense of the ordinary citizen (Denis Msacky, 2008). Box 1 below discusses concerns raised by Lissu & Curtis (2008) regarding the Buzwagi contract.

Box 1. Lissu & Curtis Description of the Buzwagi Contract

The agreement commits the government to maintaining the current tax levels in Tanzania 'throughout the life of the project'. This refers to an initial period of 25 years 'with an option for the company to renew the same upon the same terms and conditions for a further period of twenty five years'. Another clause states that if the government does change these terms unilaterally and puts the company 'in a worse off situation' than at the time of signing the contract, 'the government shall in consultation with the company take necessary steps to ensure that the company's rights or interests are not eroded or otherwise materially diminished' – i.e. compensation will be provided.

The company will pay only a small amount in taxes, such as an amount in local government taxes and rates that 'shall not exceed' US$ 200,000 each year while being exempt from paying VAT. The contract also puts maximum values on the amount the mine will pay, for example for road tolls (with the limit set at US$ 200,000 a year). Consistent with the general mining laws, Barrick will be able to repatriate all profits from the mine.

Barrick is liable to pay income tax according to the 2004 Act. However, this also means that Barrick is entitled to a tax exemption on the corporate income tax of 30 per cent until such time that it declares a profit – like all other companies.

The contract allows the company to deduct 80 percent of its capital expenditure from its tax liability. While this is actually lower than the current 100 per cent deduction allowed to mining companies under the Income Tax Act, 2004, it will only apply 'provided that the government shall have made legislative change to ensure that this provision is applicable under the laws of Tanzania' Thus unless the government changes the current law, Barrick will continue to enjoy the current 100 per cent capital expenditure write-off.

The contract states only the Barrick 'will give preference' to buying Tanzanian, as opposed to foreign goods and services. Such preference will be given 'provided such goods and services are of internationally comparable quality..' At the same time, the

company is 'entitled to import, without restriction, all items required for the design, construction, installation and operation of the project, including fuel, spare parts and replacements'. These goods can also be exported and re-imported without being subject to customs duties.

There are no limits placed on the number of expatriate staff that can be employed; indeed, the contract states that 'the government will expeditiously grant applications for work permits submitted by the mine (Article 8.3). Expatriate staff will be entitled to import their personal and household effects, including one automobile, free of import duty and other taxes. They are also entitled to 'export freely from Tanzania' all their salary.

The contract commits the government to enable the company 'to acquire on reasonable terms and within a reasonable time. . . rights to, or in respect of land and water as are necessary' for the mine. It also required the government to 'assist the company in its effort' to make use of land which may be lawfully owned or occupied by others.

The contract commits the parties, in case of a dispute to entering into arbitration in London, not Tanzania. A clause states that the London Court of International Arbitration be the administering body. This is consistent with paragraph 5 (3) of Schedule 4 to the Mining Act, 1998 which stipulates that disputes between investors and Tanzania government shall be settled under the aegis of the International Centre for the Settlement of Investment Disputes (ICSID), an arm of the World Bank. The contract itself was signed in a hotel in London, rather than in Dar es Salaam, which roused considerable critical media and parliamentary comment.

Source: Curtis and Lissu 2008: 30-31

The discussion below examines Tanzanians major concerns about the contracts as examined by Policy Forum and LEAT.

LEAT – the Lawyers' Environmental Action Team is the first public interest environmental law organization in Tanzania. Established in 1994, its mission is "to ensure sound natural resource management and environmental protection in Tanzania". It carries out policy research, advocacy and selected public interest litigation on matters of environmental management and democratic governance in Tanzania.

Policy Forum is a Tanzanian network that "works together to open up and influence policy processes that improve the lives of all people, especially those who are socially disadvantaged and impoverished, in order to empower them to self-organize and become part of a social movement for change."

Agreements shrouded in secrecy

The Mineral Development Agreements in Tanzania are often shrouded in secrecy on the commitments, obligations and rights arising therein. According to Lissu and Curtis (2008) the Buzwagi contract was for example, not officially made public, but was leaked to the media who widely reported on it. Moreover, it was signed in the middle of a review of mining contracts after the president had said that no new mining agreements would be signed until the review had been completed. The contract is said to be "of extraordinary benefit to Barrick, while offering little to Tanzanians".

Guaranteed fiscal stability related to payment of royalties, taxes, fees and other fiscal imposts during the whole period of the Agreement

The Tulawaka and Geita agreements commit the government to maintaining the existing tax levels throughout the life of the project. With an initial period of 25 years the companies have an option to renew the contract upon its expiry with the same terms and conditions for a further period of twenty-five years. The mining companies receive a guarantee from the Government that for the life of the agreements, the Tanzanian Government will not effect any unilateral legislative changes, on the company or its shareholders, rights and duties in respect of the following:

- The terms of the special mining licence or the use of the land over the development mining area, or any other land outside the said area

used by the company for example for storage or transport of its products.
- The rights of companies to employ expatriate staff, import plant, machinery, transport vehicles and any other such materials necessary for the proper conduct of the mining operations
- Tax exemptions.
- Guarantee to transfer capital, profits, and dividends.
- Guarantee from the Government of Tanzania for appropriation.
- Pricing or export of gold.
- Payment of royalty, income tax and the methods of computation for each
- Any other matter fundamental to the economic position of the company (Tulawaka, Article 9.2, Buzwagi, Article 11.2 as cited in Policy Forum n.d).

The Buzwagi Mining Development Agreement (MDA) further states that if the government does change these terms unilaterally and puts the company 'in a worse off situation' than at the time of signing the contract, 'the government shall in consultation with the company take necessary steps to ensure that the company's rights or interests are not eroded or otherwise materially diminished, implying that compensation will be provided' (Lissu & Curtis 2008).

According to Policy Forum (2008), such clauses are commonly used in sub-Saharan Africa to mitigate the perceived high investment risk of the host country. However, they can be used by companies to justify non-compliance with new laws and may also serve as a negotiation tool for companies to both delay application and/or demand compensation for such application. They can also dilute any new environmental or social laws enacted after the contracts have been signed to the extent that they have no concrete impact. This is of significant concern as most of the subsisting contracts predate the Environmental Management Act, 2004, the Income Tax Act, 2004, and the Employment and Labour Relations Act, 2004.

Taxes: In the name of creating an "enabling environment" the government has been too generous to foreign investors at the expense of the national interest. Although the general set of taxes differs from contract to contract the Tulawaka and Buzwagi agreements require that the central government collect a three percent royalty on the net back value of all minerals produced in the development agreement other than diamonds. Under the Tulawaka and Buzwagi agreements, the local governments may receive payments by levying taxes and other such charges up to a maximum of US$ 200,000. Also Pangea (now owned by Barrick) is not to pay more than US$ 200,000 per annum in respect of any increased amounts due under the Road Tolls Act, 1985. The company is also not obliged to pay sales tax or VAT. However, Barrick will be permitted to repatriate all profits from the mine (Buzwagi, Article 4.7, cited in Policy Forum, 2008)

The Buzwagi agreement allows the company to deduct 80 percent of its capital expenditure from its tax liability. Although this is lower than the current 100 percent deduction allowed to mining companies under the Income Tax Act of 2004, the current act will continue to apply until the government makes legislative change to ensure that this provision is applicable under the laws of Tanzania. (Curtis and Lissu, 2008) (Policy Forum, n.d)

As analysed by Policy Forum (n.d), the cumulative effect of the existing fiscal exemptions to mining companies is that the Tanzanian Government receives comparatively little from the mining

industry thus the sector's current low contribution to the country's GDP and total tax revenue. The fact that the agreements do not provide for the review of fiscal terms in the event that there are changes in economic circumstances, for example mineral prices, serves to maintain this low contribution. This is further compounded by the fiscal guarantee, which locks the terms for the life of the mining projects

Rights of Foreign Mining Companies to Tanzania's Resources: The Tulawaka and Buzwagi agreements offer to the mining companies ancillary rights such as land and water as necessary for the proper conduct of mining activities. In the event that the company deems it necessary to use land lawfully owned and under the care of any third parties, upon the request of the company, the Government is to assist the company in acquiring, renting and/or otherwise being lawfully permitted to use such land. With respect to the Tulawaka Gold mine, in the event that the prescribed mining development area contains a forest reserve, the company shall have the right of entry thereto (Tulawaka, Articles 7.1-7.2; Buzwagi, Articles 9.1-9.2 cited in Policy Forum, (2008).

This clause places the natural resources of the country at the mercy of the foreign investors. It is the government's responsibility to protect its natural resources, even at the expense of foreign investors, who do not have the interest or even ability to protect the country's natural environment.

Lack of conditions in the contracts to ensure contribution to development activities: The contracts do not impose any conditions aimed at ensuring contribution to development objectives – for example, training and employment of Tanzanians, sourcing of local goods and services, adding value to minerals or generally creating forward and backward linkages in the economy to stimulate other sectors. The Tanzanian government has also been criticised for failing to implement or encourage a capacity building mechanism, by including clauses to this effect in the contracts, so that over time the need to rely on foreign expertise will diminish.

The strength of incorporating terms into the contract is that it would ensure contribution of the mining companies to the local communities. Failure of the companies to adhere to the terms would constitute a breach of contract and possibly lead to termination and payment of damages (Policy Forum, 2008).

Lack of measures to ensure proper closure of the mines: The issue of proper closure of mines is not dealt with in the agreements. This should have been an opportunity for the government to ensure safe closure of mines by the companies when mining ceases with minimum negative impact on local communities.

Other characteristics of the contracts include permission to operate foreign bank account(s) and to repatriate funds without restrictions (Tulawaka, article 5.4; Buzwagi, Article 5.4). The Tulawaka and Buzwagi agreements permit Pangea contractors and sub contractors to employ non- Tanzanians without restriction (Tulawaka, Articles 6.3-6.5; Buzwagi Articles 8.3-8.5).

5.4.2 International Comparisons[9]

An analysis by Lissu & Curtis (2008) argues that African countries with liberalised tax regimes benefit marginally from mining. Comparing Tanzania's mining tax laws to some other major African mining countries, similarities and some major differences are discussed as follows: Tanzania's royalty rate of 3 percent for gold is the

9 Derived from Mark Curtis & Tundu Lissu, (2008) A Golden Opportunity: How Tanzania is Failing to Benefit from Gold Mining, p.31

same as in Ghana, another major gold producer. It compares to a 10% royalty levied in Botswana for diamonds and a miniscule 0.6percent levied in Zambia for copper.

Tanzania's VAT laws are more permissive than those in most countries. Foreign companies and their subcontractors are exempt from paying VAT on imports and local supplies. Ghana too applies zero VAT on mining assets, but Botswana applies a 10 percent VAT rate. There are no special VAT provisions in Kenya and Uganda, although mining agreements in Kenya are likely to provide VAT relief on some equipment, and VAT deferment applies to most plant and machinery imported into Uganda.

Although Botswana operates a fairly liberal investment regime that encourages foreign investment, it has a royalty rate of 10 percent (of the gross market value of the minerals). Mining contributes 50 percent of government revenue, along with 40 percent of GDP. Unlike Tanzania, Botswana does not allow taxes to be filed in US Dollars, and its Mining Act gives the government a mandate to acquire a 15-50 percent stake in major mining projects. Thus, the government retains a 50 percent stake in the De Beers Botswana Mining Company (Debswana). In contrast, in Tanzania foreign firms have been guaranteed 100 percent ownership of mines.

Curtis and Lissu (2008), argue that countries with overly liberalised tax regimes, such as Ghana and Zambia can hardly be held up as role models for Tanzania as these countries have benefited only marginally, if at all, from mining. Botswana has been cited as one country that can boast of significant success in using mineral resources to boost development. Diamonds have accounted for four-fifths of Botswana's exports in recent years while the country has registered one of the world's fastest economic growth rates. UNCTAD notes that 'as a result of mineral-led economic growth, the country has progressed from being one of the poorest countries in the world to becoming an upper-middle-income developing country, and it is the only country ever to have graduated from LDC status'.

The increasing discontent among the Tanzanian public, civil society groups and politicians about the state of affairs in the Tanzanian ERI has resulted in increased government action that resulted in the appointment of a commission to probe mining contracts. The Presidential Mining Review Committee chaired by Justice Bomani released its report in 2008. Keeler (2008) reveals that the National Commission has since begun debating the report and has announced its intention to make some recommendations. The Ministry of Energy and Minerals is expected to present a fully revised Mining Act by the end of 2009. The extent to which the government is ready, dedicated and equipped to implement the reforms is yet to be seen.

Impact of the extractive industry on Tanzania's economy, politics and social development

6

PHOTO: © Bhaskar Rao

Tanzania's extractive industry is currently characterised by a rich mineral endowment, increasing FDI and policies and acts that are geared towards encouraging foreign investment at any cost. The mining sector in Tanzania is thus one of the fastest growing sectors in Tanzania with an average growth rate of 12 percent per annum. However there are consistent and growing murmurs of discontent about the mining industry. The chief complaint is that the investments are not of benefit to Tanzania but are instead being used to transfer the country's resources out of the country[10]. Foreign direct investment has increased ever since Tanzania liberalised her economy in 1995 (see table 8 below). The leading investor countries include the United Kingdom, China, USA, Kenya, Germany, South Africa, India and The Netherlands (MoFEA, 2007). The value of mineral exports has also been on the rise as shown in Table 9. In spite of all this, as aptly expressed by Keeler (2009), a litany of problems plagues the sector. These include an opaque contractual process that has bred mistrust between the various stakeholders; rising social tensions around some mines where community relations between the mining companies and the locals are strained; the complaint from the mining sector that the costs of doing business not only remain high, but also are increasing and insufficient energy supplies amongst others.

6.1 Impact of Liberalisation and Increased FDI on Poverty Levels

The growth of FDI in the minerals sector may be considered a positive aspect for Tanzania, which like many other African countries is striving to encourage foreign investment because of its perceived benefits.

10 See 'Tanzania's Pot of Gold' - http://news.bbc.co.uk/2/hi/africa/1448948.stm (accessed 7th October 2009). See also Mark Curtis and Tundu Lissu 'A golden opportunity: How Tanzania is failing to benefit from gold mining', 2008.

Table 8: Foreign Direct Investment 1995-2007

Year	Value of FDI in US$ million
1995	150.9
1996	146.6
1997	157.8
1998	172.2
1999	516.7
2000	463.4
2001	467.2
2002	387.6
2003	308.2
2004	330.0
2005	447.6
2006	474.6
2007	512.7

Source: Tanzania Economic Survey 2007

Table 9: Value of Mineral Exports 2000-2007

i) Year	2000	2001	2002	2003	2004	2005	2006	2007
Value '000 US$	181,978	314,020	440,260	565,080	674,870	727,478	850,357	857,309

Source: Tanzania Economic Survey 2007

A Policy Forum report (2008) argues that economic liberalisation and institutional reforms in Tanzania have failed to achieve poverty reduction. As well, there is currently no evidence that the increase in FDI has contributed to poverty reduction. Data from the National Bureau of Statistics as presented in Table 10 below shows a reduction in the poverty incidence of just 2.2% between 2001 and 2007. Given that it is within the statistical margin of error of 3%, one cannot be confident that the reduction in poverty is discernible.

Table 10: Poverty Incidence 1991-2007

	1991	2001	2007
Dar es Salaam	28.1	17.6	16.0
Other Urban	28.7	25.6	24.2
Rural	40.8	38.6	37.4
Tanzania mainland	38.6	35.6	33.4

Source: National Bureau of Statistics 2001 & 2007

The report argues that the 5 percent poverty reduction over the 16-year period is almost insignificant and that most of the change experienced was in Dar es Salaam. However, the number of people living below the poverty line increased by 1.3 million in the same period as indicated in table 11.

Table 11: Number of people living in poverty

	Population TZ Mainland	Poverty Rate %	Number of people in poverty (Millions)
2001	32.4	35.6	11.5
2007	38.3	33.4	12.8

Source: Economic Survey, National Bureau of Statistics 2001 & 2007

The report concludes that economic liberalisation in Tanzania has failed to reduce income poverty for most people and that for the majority of the Tanzanians the ability to sustain themselves has not changed significantly. This raises some fundamental questions about the efficacy of economic liberalisation as a tool for poverty reduction in Tanzania.

6.2 Small-scale mining

Artisanal miners who use simple mining tools and techniques that are readily available and affordable mostly carry out small-scale mining. Small-scale mining in its own right provides employment and a source of livelihood for many Tanzanians. Artisanal miners in Tanzania often consist of the poor and uneducated and it is believed that in the 1990s artisanal mining employed between 500,000 to 1.5 million people.

An analysis by Phillips et al. (2001) present a number of factors that have served to boost small scale mining, including:

- The decision in the late 1980s to end the STAMICO monopoly and allow any Tanzanian to register a claim and sell minerals.
- The liberalisation of currency controls;
- Permission for exporters to use their export proceeds.
- Floating of the currency in 1994 such that foreign exchange proceeds could be used to finance imported consumer goods, equipment and spare parts that had previously been scarce in Tanzania.

The above factors were critical to the increased motivation and benefits from artisanal mining and thus its ability to flourish and catalyse an artisanal mining boom in that period. From a few thousand artisanal miners in the 1980s, artisanal mining grew rapidly in the 1990s. In 1993, about 330,000 people were involved in small -scale mining, a number that had increased to about 550,000 by 1995. Some of the minerals and precious stones were found in rural areas and thus helped to relieve poverty and increase the cash in circulation in rural towns, and even allowing some individuals to accumulate significant investment capital. Thus artisanal mining contributed to poverty alleviation and rural job creation. Incomes and the money from artisanal mining circulated locally and contributed to secondary economic activities that followed mining such as shops and services. It is said that small-scale mining generates an estimated three jobs for every one individual directly involved in mining.

Phillips et al (2001) further reveals that artisanal mining enabled Tanzanians to accumulate capital and move up career ladders into brokering and dealing. Some people were able to invest in more stable businesses such as shops, restaurants and guesthouses. No other sector or job creation program has been able to inject such income in rural areas, stimulate cash flow and reduce poverty

on such a scale. The role of artisanal mining was further appreciated because mining towns contributed to the prosperity of neighbouring villages- modern housing, corrugated roofs, and slight improvements in roads and schools. Neighbouring villages had few complaints about mining. Nearly all their comments about the impact of mining were positive, even where few local residents participated.

6.2.1 The Ordeals of Small-Scale Miners

Small-scale mining activities have predominantly been carried out with the use of manual and low -technology techniques. In spite of the long-term existence of an association for artisanal miners in the country, a conducive and supportive environment under which the sector could prosper has not been provided (Tesha, 2000). Before the policy reforms of the 1990s, marketing arrangements for artisanal mining operations in Tanzania were not elaborate and competitive and the sub-sector was associated with illicit mineral dealing. Lack of proper management institutions for the sector made licensing of artisanal operations almost impossible and nearly 15 tonnes of gold were being mined illegally per year.

Although the government has set aside a number of locations for small-scale mining including: Kilindi district (Tanga region), Kilosa and Mvomero districts (Morogoro region), Maganzo, Kishapu and Ibadakuli (Shinyanga region), Merelani (Manyara region), Mpwapwa (Dodoma region), Nyarugusu and Rwammgasa (Mwanza region) and Manyoni (Singida region) (JMT, 2008a) protection of the rights of small-scale miners and maintaining the gazetted small-scale mining areas remains a challenge once lucrative deposits are discovered. Small-scale miners have thus faced many challenges including: unlawful eviction and abuse of human rights, as discussed by various authors including Bradburn, (2003), Curtis and Lissu (2008). Bradburn narrates one incident where miners and residents were unlawfully and forcefully evicted as a result of gold reserves being found in their area.

"In Shinyanga region of west central Tanzania, one of the poorest in the country, small scale mining at Bulyanhulu once offered rural people an income about 6 times what they could make from farming. The nation's richest gold deposit, Bulyanhulu is located in the Kahama district, about 30 miles south of Lake Victoria, an area that had been officially designated as restricted to small-scale concessions, under the Mining Act of 1979, and by explicit order of former President Ali Hassan Mwinyi (1986-1995), who in 1993 told Kahama District Commissioner Halinga to ensure that artisinal miners be 'free to operate in any area of Bulyanhulu'."

In June 1995, KMCL initiated legal proceedings in the High Court of Tanzania to evict the artisanal miners who had been in lawful occupation of the Bulyanhulu claims since 1975. The miner's claims also rested in ancestral rights in the area, on the basis of pre-colonial farms and ancestral graves. The High Court ruled in favour of the miners on 29th September 1995…KMCL lawyers unexpectedly withdrew the appeal, apparently realising the legal system in Tanzania would not be as sympathetic as the Ministry of Minerals had been…indeed the Minister of Minerals Dr. Shija decreed on July 30, 1996 that the Bulyanhulu miners had one month to vacate the area. That same evening, however the Regional Commissioner, Major General Kiwelu, stationing paramilitary troops at a Bulyanhulu village, ordered all mining operations to cease within 12 hours. Eviction began the next morning…. Moreover miners and subsistence farmers forced off their land have never been properly compensated in accordance with section 81 (1) of Tanzania's mining act (Bradburn, 2003).

The above narrative illustrates the suffering and violation of human rights faced by poor and unprotected Tanzanians, whose blessing of mineral resources on their land turns into a curse once the authorities discover mineral wealth in their settlements. Attempts by concerned

Tanzanians to protect their fellow citizens and to seek justice for the people from Bulyanhulu who have been unfairly treated, have seen their attempts frustrated by a number of leaders and bodies who have chosen to side with the wealthy mining company. As noted by Bradburn (2003) around that time;

> *…two Tanzanian lawyers and a leading MP face charges of sedition, as a result of their tireless investigation of the case, their support for local miners and the crime of releasing evidence of rampant corporate hegemony. The documents they have compiled reveal a trail of deceit, corruption and high crime that involves not only their own government…*

All in all, the arrival of FDI in mining projects also saw numerous challenges emerge. Large-scale mining has been blamed for the decline in employment due to the use of advanced technology and is crowding out small-scale mining operations. As Phillips (2001) explains, artisanal mining can only coexist with international mining companies during the exploration phase. When the companies are ready to fence and begin mining, artisanal miners have to be displaced.

6.3 Land Issues and Compensation

Large-scale mining has a big appetite for land. It should be noted that the land currently used for mining was traditionally used for agriculture and pastoralism, both being major factors in sustaining local livelihoods.

The mining acts stipulate fair methods for dealing with situations where people have to give way for mining activities. For example, Section 96 of the Mining Act, 1998 states that, 'the licence offered shall be utilized without causing any harm to the landowner or the rightful resident'. Section 96(3) states that compensation for the resident should match the market value and should be rightful and sufficient. It is common for companies to collaborate with district leadership without involving the local citizens who will be displaced. The government evaluator determines the compensation amounts for each property without informing and involving the citizens and after the valuation exercise, the affected people are paid through the office of the District Commissioner. Many of the people affected do not know their rights and the amount of compensation they ought to eventually receive, a fact which the multinational companies take advantage (Rubara n.d). Sometimes the companies compromise or collaborate with the administrations to avoid making payments.

As pointed out by the Bomani Commission (JMT 2008b), the basis of valuation and compensation is questionable and not elaborate enough. It does not take into consideration some concerns such as situations where there are heavy investments in the cultivation of permanent crops. Citizens are not aware of the basic criteria for computing the compensation amounts. Valuation for compensation is sometimes done without heeding the key issues identified in the law (i.e. disturbance, transport and the value of the properties). Many people have been displaced without being compensated or allocated alternative settlements. Bulyanhulu, North Mara, Buzwagi, Geita and well as Mererani are some of the areas affected.

In Tanzania land is governed by the so-called Regalian Doctrine, which states that the state has the right to the mineral resources found underground. On the other hand, Tanzanian laws recognize ancestral land rights, which do not envisage a dichotomy between surface rights and sub-surface rights. Thus, it includes rights to the mineral resources.

6.4 Local Governance and Democracy Issues

There appears to be a significant disconnect between the large scale mining companies and the local governance structures in the areas in which they are located, resulting distrust between the local communities and mining companies. Local governments and rural communities know very little of what goes on behind the walls of the mines but they pay a heavy price as a result of increased population and increased use of infrastructure due to mining activities in the area.

The 1982 Local Government Act empowers Local Government Authorities (LGA), to charge a Service Levy of not more that 0.3% of the turnover from economic activities that are undertaken in their respective districts, including mining activities. However, most of the relevant LGAs have failed to collect the Service Levy because the levy is based on the amount realised from sales of the minerals, information which is difficult to get. Due to ignorance of the Acts and the secrecy surrounding the MDSs many LGAs have also had problems collecting the US$ 200,000 that the mining companies are supposed to pay annually.

According to the Presidential Commission on Mining Review (JMT, 2008b), the concerns of LGAs and communities in mining areas are as follows:

- There is no explanation about how the US$ 200,000 figure was arrived at, and there is a possibility that 0.3% of the turnover from mining activities could exceed the US$ 200,000 fee.
- The US$ 200,000 levy is small considering the fact that the LGAs incur huge costs to provide social service to rapidly expanding populations, chiefly the result of the existence of the mines. For instance, the LGAs frequently have to rehabilitate roads that are damaged by heavy mining trucks and equipment. Also, there are increased costs for other social services like health, education and water because of increased migration into the mining areas.
- Some LGAs are not aware that they are supposed to charge the levy. Some of the investors have refused to pay, especially when they realise that the relevant LGAs are ignorant about the levy.
- The levy is only charged for gold mining, leaving aside other minerals such as diamonds and tanzanite.
- The levy is paid at the district headquarters and the money is included in the general district budget while the villages where the mines are situated, and which are directly affected by the presence of the mines hardly benefit from such payments.

6.5 Corporate Social Responsibility

As part of the international Corporate Social Responsibility requirement, all mining companies are supposed to contribute to the development of their host communities. In Tanzania, the companies' investment in social development is registered by the Ministry of Energy and Minerals and incorporated into the calculations of the total revenue contributions of the sector as "donations". However, according to Siri Lange (2006), of the US$ 17 million donated by the companies between 1999 and 2002, US$ 12 million (or 70%), was spent on water and roads. Critical voices argue that the companies' investments in these sectors are simply for their own benefit. They typically repair only roads leading to the mine and draw water pipes that they themselves need. People's suspicion about the "selfish" motives of mining companies when it comes to community development is partly confirmed by the fact that such donations have gone markedly down after

the initial infrastructure for the mining companies was in place. Donations in 2002 were only one fifth of the level in 2000 (Lange, 2006: 12)

On the positive side, Lange (2006) observes that donations to education projects have increased over the years; also that the companies spend a lot on human resource development, i.e. training of their employees. Since 1997, the major mining companies have spent more than US$ 7 million on training of approximately 7,500 people. Training may range from providing basic training in machine operation to sponsorship of professional levels.

6.6 Environmental Issues

Environmental management and the enforcement of health and safety regulations in mining has not received the attention it requires leading to increased incidences of uncontrolled extraction of minerals; the use of unsafe mining methods; and environmental degradation as a result of deforestation, destruction of habitat, loss of biodiversity and general damage to the land. Mining camps are often plagued by poor sanitation, lack of clear and safe drinking water, high congestion, and poor hygiene. Mining companies have been accused of polluting the environment in the localities where they conduct their operations and thus endangering the lives of the local people.

Evans Rubara gives the example of the Barrick mining site in North Mara where the tailings dam runs freely into the pastures and fields used by the local population and the heavily contaminated waters from the processing plant, leaking into their water sources, adversely affect them and their livestock. Independent experts have confirmed the presence of high levels of toxic chemicals in the area surrounding Barrick Gold Corporation's North Mara gold mine in Tarime district, Mara region. According to the researchers, levels of nickel in the area have risen 260 times, levels of lead are up 168 times and chromium levels have also multiplied by 14 compared to the last time tests were conducted in the area about seven years ago (This Day, 2009 and Daily News, 2009)

6.6.1 Environmental Impacts of Small-scale Mining

Artisanal goldmines in Tanzania have been cited as major culprits in the neglect of the environment. Various complaints have been made regarding the nature of their operations and the impact on the environment. According to a World Bank report (1992) their workings are up to 35 meters deep and are laid out with no knowledge of rock stability. Operators and government officials estimate a fatality rate of five percent per annum and with an injury rate that s substantially higher[11]. The problems are not limited to the mining site. Informal villages spring up with little or no basic sanitary services, and law and order problems. The shift from farming to speculative mining has reduced food production bringing with it the spectre of famine. In many places severe environmental side effects require urgent action. When large numbers of artisans are working, it is common to clear the bush by burning thus destroying the flora and driving out wildlife. Sterile waste is piled on what little topsoil exists and streams become silted and polluted with mercury (World Bank 1992:44).

Box 3 below discusses the impact of small-scale miners and their activities on the environment as presented by Tanzania's State of the Environment Report (URT 2006).

11 Environmental Impacts of Small Scale Mining (CEEST, 1996, 62 p.). See also World Bank, 'Environmental Assessment of Mining Projects' in 'Environmental Assessment Update' No. 22, March 1998 pp. 10

Box 2 Environmental Impacts of Small-scale Mining

Siltation of dams and rivers by loosened up sand and gravel due to mining and washing at mine sites.

- Mercury pollution during the amalgamation stage.
- Deforestation usually extensive and indiscriminate for purpose of clearing land for mining, wood/trees for fuel and shelter.
- Creation of squatter problems as haphazard settlement accompanied by crowding, spring up in communal or commercial farmlands, forest reserves, etc.
- Lack of, or improper sanitary facilities leading to health risks.
- Destruction of potable water sources and/or river sources.
- Pollution of groundwater and surface water by mineral processing effluent and raw sewage.
- Air pollution, from refining processes, poorly maintained rock and slimes dumps.
- Acid mine drainage from waste dumps.
- Dust pollution from blasting, earth moving equipment, and from waste rock and slimes dumps.
- Loss of the land's economic and aesthetic values through random pitting and subsidence.
- Water table depression as a result of pumping water through shafts.
- Heavy metal and hydrocarbon pollution.

Source: URT (2006)

A study by Tesha (2004) highlights a number of environmental problems related to small-scale illegal mining in Rwamagasa, near Geita as elaborated below:

- **Mining pits:** Miners dig pits to test for the existence of gold. If there is not enough gold and the mining venture appears to be unprofitable, the pits are abandoned without being filled. The result is that the area is covered with pits of various depths from two to 20 metres that are left unattended. These pits are sometimes death traps for domestic animals and people walking in the area at night or during the wet season when the pits are covered by grass.
- **Forest Clearance:** Mining activities often require the clearing of forests to secure the pits as well as for domestic.
- **Sluicing and Panning along the Rivers:** Panning and sluicing requires a lot of water, which is drawn from existing rivers. The rivers are also sources of water for domestic use in the mining centre. Heaps of tailings can be seen along the river and various miners bringing their powdery ore for washing and amalgamation along the river. Activities are intense during the dry season since the river remains with pools of water, which the miners use for washing and amalgamation. During the wet season the river has flowing water making it difficult to work along the banks, as the tailings will be wet and very difficult to work on without machinery. Washing activities are thus minimal but intense in the living compound due to availability of water.
- **Heaps of Tailings in Living Compounds:** The tailings are stored in residential compounds in which some miners have constructed cemented ponds for washing and amalgamation. Various heaps are visible in the living compounds of the miners. These are both environmental and health hazards to the community.
- **Dust and Noise Pollution:** Dust originates from various mining activities including the milling centre and during transportation of the powdery ore to the washing areas and when miners are crushing reef ore into small sizes to be fed into the ball mills. Noise originates from the milling centres
- **Mercury Pollution:** Mercury, lethal to humans is one of the by products from the mining activities, during amalgamation and smelting processes. Miners sometimes work without protection and their health is affected. The effect of mercury is discussed in Box 4 below.

Box 3. Mercury Pollution in Rwamagasa

Rwamagasa is a typical small-scale mining village with approx 27,000 inhabitants. Artisanal and small-scale miners use mercury to extract gold from the ore. The extraction of the gold with mercury releases large amounts of toxic liquid mercury fumes into the local environment. It is estimated that approximately 150,000 to 300,000 people work and live in similar small-scale mining communities all over the country. There is no clean and safe drinking water, no waste disposal for the toxic mercury or any other waste or human discharge. Hygienic standards are extremely low and are the cause of many infectious diseases such as diarrhoea, typhoid and parasitism.

A recent health assessment indicated that mercury is a serious health hazard in the small-scale gold mining area of Rwamagasa. Miners working for many years in the amalgamation or smelting process showed severe symptoms of mercury intoxication. The exposure of the whole community to mercury is reflected in raised mercury levels in the urine, and early symptoms of brain damage like ataxia, tremor and movement disorders. The exposure to mercury for the miners and the community has to be drastically decreased. Proper mining techniques to reduce the burden of accidents and mercury exposure are urgently required. Small-scale miners need all possible support to introduce cleaner and safer gold mining and extraction technologies.

It is necessary to prepare for mercury detoxification and to build up a system to diagnose and treat mercury related health problems in the area. The participants with intoxication need medical treatment. To implement such a system, training of health care providers is compulsory. Capacity building including establishing laboratory facilities to analyze mercury in human specimens is required. Funding of preventive campaigns and for treatment facilities is of utmost importance.

Source: Tesha (2004)

6.6.2 Large Scale Mining and Environmental pollution

The table below, quoted from the State of the Environment Report (URT 2006) contains a summary of possible environmental impacts of large-scale mining

Box 4: Environmental and Pollution Impacts of Large Scale Mining

ENVIRONMENTAL IMPACTS

- Destruction of natural habitat at mining and waste disposal sites.
- Destruction of adjacent habitats as a result of emissions and discharges.
- Destruction of adjacent habitats arising from influx of settlers.
- Changes in river regime and ecology due to siltation and flow modification.
- Alteration in water tables.
- Change in landform.
- Land degradation due to inadequate rehabilitation after closure.
- Land insatiability.
- Dangers from failure of structures and dams.
- Abandoned equipment, plant and buildings

POLLUTION IMPACTS

- Drainage from sites (acid mine drainage and mine water).
- Sediment runoff from mining sites.
- Pollution from mining operations in riverbeds (dredging).
- Effluent from mineral processing operations.
- Sewage effluent from the site.
- Oil and fuel spills.
- Soil contamination from treatment residues and spillage of chemicals.
- Leaching of pollutants from tailings and disposal areas and contaminated soils.
- Noxious emissions from minerals processing operations.
- Dust emissions from sites close to habitats.
- Release of methane from mines

6.7 Employment issues

Even with the increase in the number of mining companies in Tanzania, the rate of employment has not increased. There have been falling standards in labor rights and welfare as workers are denied freedom to participate in unions. This is because of mechanization and automation and also of labor-contracting methods, which undermine organised unions (Rubara, n.d.).

Mining companies have also been accused of treating their employees unfairly. For example, according to one investigative journalist (Rubara n.d) 1,370 employees were fired from Barrick Gold after they demanded their rights. The company has also been accused of creating problems with an aim of getting rid of enlightened and vocal employees who stand up for their rights. In addition, workers are fired once they get affected by the chemicals used in their operations. The workers also complained of not enjoying salary, training and other benefits that foreign employees in the company enjoy although it is the local manpower that does most of the dangerous work in the dark tunnels.

Barrick has been criticized for claiming to provide 1,000 jobs at Bulyanhulu and yet this can hardly compensate for the quarter of a million people forcibly evicted. Bradburn (2003) further down plays Barrick's public statements, which stress its community building responsibilities as their guiding principle. He argues that they do not mention that within a week of the mine's official opening 26 Tanzanian engineers quit their jobs, citing low wages, discrimination and mistreatment of local professionals.

6.8 Inequality in society

Inequality in society is further exacerbated by large-scale corporate mining operations. In most cases, people from the local communities around the mining area remain unemployed, while the minority working for the mining companies enjoy a good income and high living standards. Although the large scale, foreign-owned mines have contributed a paltry 7,000-8,000 direct jobs, their indirect job-creation effect has never been seen as sufficient due to lack of vertical and horizontal linkages between the large mining activities and local economies.

6.9 Challenges facing the Tanzanian Government

It is the responsibility of the Tanzanian government to ensure that the country's resources are properly exploited and managed for the benefit of the citizens. However, as pointed out by Keeler (2009) the Tanzanian government has limited capacity to do so and it has already attempted and failed to manage several mines in the past. The government has problems keeping track of the exact amount of minerals exploited, and how to determine the expected tax and royalties.

Corruption is a prominent feature in the Tanzanian public sector. The country was ranked 102nd out of 180 on the Transparency International corruption index (Transparency International, 2008 cited in Keeler 2009). Other mining countries score better: Botswana is ranked 36th and Ghana 67th. The Bomani report (JMT 2008b) also points out that the government has sometimes been manipulated by the mining companies and often negotiates with the mining companies without consulting local communities. In effect, this has left many Tanzanians at the mercy of profit-driven mining corporations. According to Evans (n.d) there are attempts to influence policy and legislation in a way that favours mining companies, at the expense of Tanzanians. Quoting "This Day" of July 2008, Evans (n.d) reveals that the Canadian High Commissioner to Tanzania and other officials travelled to Dodoma on a mission to lobby MPs about their positions on the Bomani Committee report recommendations. It is pointed out that parliamentary sources confirmed that the Canadian delegation had been in private talks with influential legislators from both Chama Cha Mapinduzi and the Opposition in an attempt to ensure that parliament did not endorse the Bomani Committee report. The immediate implementation of the Report would have

adversely affected Canadian mining interests in Tanzania.

The Bomani Commission (URT 2008b) has been fairly effective in exposing some of the problems and weaknesses of the ERI in Tanzania and providing recommendations. In the report the government is also accused of giving away big portions of land to multinational mining companies, leaving indigenous people displaced. The Commission reveals that Barrick as an investing company in Tanzania owns land that is not being put to good use, and that weaknesses in government policies and practices have made it easier for multinational companies to plunder the country's wealth.

6.10 The contribution of large-scale mining

There have been some positive contributions to Tanzania as discussed in Box 6 below, which examines the impact of Geita Gold Mine (GGM) on Geita Township.

Box 5: The Impact of GGM on Geita Township

Geita had the air of a mining ghost town. It had formerly served colonial gold mining operations at the Old Geita Mine (1934/66). Prior to GGM in 2000, the town was essentially a run-down centre for petty business. Its old buildings were stained red-brown by mantles of red soil dust, from the weathering of iron-rich rocks or the banded Iron Formations characteristic of the Geita Hills.

Four years later, thanks to GGM, Geita is a booming business centre and probably the fastest growing town in Mwanza region. This is confirmed by demographics that show the population has grown to more than 700,000, making Geita the third most populated district in the country, after Ilala and Kinondoni of Dar es Salaam Region. The town has been electrified and water supplies services have been improved. The glittering roofs of new and modern residential houses, mostly owned by GGM COMPANY employees, now illuminate the lower slopes of Geita Hills, formerly a green belt. New businesses have been launched, including telephone and internet services. Decent hotels and guesthouses have been built to serve the growing community of Geita town, GGM employees, and the swelling number of visitors to the town and mine.

Villages along a 50 km stretch of water pipeline, from Lake Victoria Nungwe Port to the Geita mine, have been supplied with water access points, improving the safe water supply to the villages. Geita district hospital has been rehabilitated by GGM to provide better health services, and a new health centre has been built near Kasamwa to serve the villages away from Geita. GGM spends nearly 100 million shillings annually to support community development projects around Geita. It also organises an annual fund-raising event christened 'Kilimanjaro Challenge' to support families affected by HIV/AIDS. In the last two years this initiative has raised around 150 million Tshs every year, most of which is distributed to HIV/AIDS support programmes.

The Geita town benefited from its status as District Headquarters even prior to the launching of GGM. As a result, it had administrative and business infrastructure that was conducive for growth, and the town was on the receiving end of good cash flow from mining services.

Source: Maliyamkono and Mason (2006)

In her book, Upton (2009) outlines the ways in which large scale mining can contribute to developing economies as follows:

- It can be the main source of a country's foreign direct investment, and this can in turn result in a significant increase in the volume of domestic investment.
- Mining can be a major source of foreign exchange by generating new exports, which can quickly overtake traditional exports in this role.
- Mining can contribute greatly to government revenues, relative to its share of GDP, since it is highly visible and is, therefore, an easily taxed activity compared to traditional activities such as agriculture, small-scale manufacturing and artisanal mining.

- Modern mining is unlikely to contribute a large proportion of GDP. Its contribution to Gross National Income (GNI) is likely to be even smaller, due to the outflows of mining company dividends and interest on debt. Modern mining cannot be expected to make a contribution to local employment levels due to its capital-intensive nature.

Upton argues that there have already been visible contributions of the industry to the Tanzanian economy including the following:

Increase in FDI receipts

Tanzania has experienced a tremendous increase in FDI receipts. It is currently in the upper-middle range of African countries in terms of FDI, with its FDI stock rising from US$ 2.78 billion in 2000 to US$ 5.94 billion in 2007. Whereas in the early 1990s Tanzania would have appeared at the bottom of this ranking; between 2004 and 2007, Tanzania attracted more than double the FDI of its neighbour, Kenya, traditionally a strong FDI attracting nation. (Upton, 2009)

Increased foreign-exchange earnings

The recent growth of gold production in Tanzania has marked a transformation of its export sector. Before independence in 1961, Tanzania's exports were dominated by agricultural products-including coffee, tea, cashew nuts, tobacco and sisal. Gold exports have steadily grown to dwarf the combined totals of the traditional exports. Upton (2009) further argues that between 1999 and 2008, traditional crop exports grew by approximately 4 percent on an annual basis while non-traditional exports such as mined products and manufactured goods grew by 31 percent. Without the recent earnings from gold mining, Tanzania would be foregoing some US$ 750 million per year in foreign exchange earnings-comparable to and significantly more than the total annual aid flows to Tanzania in prior to 2006 and higher than the value of HIPC debt relief in most years. It is also 700 percent higher than the earnings from Tanzania's main traditional export of coffee in recent years. She further argues that the tax contributions from gold production although still lower due to depreciation allowances are already one of the largest sources of tax` revenue for Tanzania at 3.6 percent. Moreover, without earning valuable foreign exchange Tanzania has no means to pay for key manufactured goods such as imported health care equipment, medicine, oil or capital goods.

Contribution to government revenues from taxes

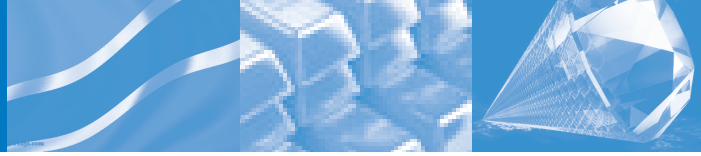
Although the mining industry has been greatly criticized for failing to adequately make their tax contributions, Upton argues that AngloGold Ashanti and Barrick are already among the highest single tax payers in Tanzania, and the contribution by these major producers alone are projected to raise significantly through to 2017. Tanzania's export earnings from gold mining are already US$ 770 million and these may double by 2016.

Employment

Employment resulting from gold mining in Tanzania is quite significant. The sector creates more jobs than the country's utility sectors combined, which includes gas, electricity and water. The economic boost from this is increased by the employment multiplier, estimated to be about three percent in Tanzania.

Expected future contributions of large-scale mining

According to Upton (2009), there is a bright future for Tanzania's mining industry. Data from confidential plans of the major gold mining companies in the country accessed by the Golden Building Block report reveals that the expected



future contributions of the industry to the country are important because the active mines are still young; the tax allowances of these initial stages will expire and thence yield considerably higher tax receipts. In addition, local supply chains can take years to develop and mature. The future holds greater promise than the relatively early stage of this past decade. Gold mining activity by these companies is expected to double the already significant foreign exchange earnings, reaching US$ 1.4 billion by 2012. Regarding government tax payments, the exhaustion of depreciation allowances in the coming years positions the gold companies as major contributors to government revenues, paying potentially 6-8 percent of all government revenues by 2017. These contributions are based only on the mine plans of the participating companies, and do not take into account the effects of new discoveries or new mine developments. This is thus a conservative prediction for future contributions.

Upton further argues that achieving these results will depend upon continuing significant levels of capital investment by mining companies. Already a total of US$ 2.32 billion has been invested in mine construction, and a further US$ 2.67 billion will be necessary in further capital outlays before 2034 if the potential levels of production discussed in the report are to be achieved. And so the question: if gold mining is to play a much decreased role in Tanzania's economy, where would the productive capacity to replace gold mining come from, considering that over the past decades there has not been any other industry with the potential to make greater contributions to taxes, employment and foreign exchange.

Endeavours towards mining reforms in Tanzania

7

PHOTO © Harry Ward

Civil society, government, media and other organisations have made some efforts to publicise the various loopholes and wrongs in the ERI in Tanzania, and where possible advocate for reform and better practices in the industry,

7.1 Role of Civil Society

Local civil society groups focused on mining issues have expressed discontent over various practices in the mining sector ranging from lack of transparency in mining revenues, environmental problems, forceful evictions and lack of compensation.

7.1.1 Lawyers Environment Action Team (LEAT)

LEAT has been one of the most prominent Tanzanian NGOs in pushing for justice in the mining industry and monitoring the impact of the mines on displacement, environment and health in mining communities. It has also been visible in the campaign for better practices and respect for human rights.

One of the most publicised achievements of LEAT was the Bulyanhulu case where the Tanzanian government authorities in collaboration with a Canadian owned company Kahama Mining Corporation Ltd. forcibly evicted some estimated 200,000 artisanal miners, peasant farmers, small traders and their families from Bulyanhulu in a struggle over the gold deposits there[12]. In an operation to remove the miners it is alleged that over 50 artisanal miners were buried alive when the authorities and company officials decided to back fill the shafts.

12 See "12 years on, victims still waiting for justice" IPP Media, 19th October 2008, http://ip-216-69-164-44.ip.secureserver.net/ipp/observer/2008/10/19/124750.html Accessed on 7th October 2009.

Apart from the Bulyanhulu case, in 2003 LEAT lodged a complaint to the Tanzania Commission for Human Rights on behalf of behalf of 1,273 former small-scale miners, peasant farmers and landowners, against forced evictions by Afrika Mashariki Gold Mine. The have also campaigned against child labour in mining.

7.1.2 The Federation of Miners Association

The Federation of Miners Associations in Tanzania (FEMATA) is a policy advocacy forum for small-scale miners. However, according to Kulindwa et al (2003), this organisation was completely excluded during the review and revision of the legal regulatory and fiscal regime for the mineral sector and the drafting of the Mining Act. In response, FEMATA lobbied parliamentarians from mining areas to demand changes, which they wanted in the Act, a move that bore some fruit.

7.1.3 Tanzania Mineworkers Development Organisation

The Tanzanian Mineworkers Development Organisation is another organisation that works to assist artisanal miners and small-scale mining communities. The organisation has documented human rights abuses and killings in Mererani Tanzanite Mines, some of which have featured in parliamentary discussions and various mining enquiries since 2001.

7.1.4 Legal and Human Rights Centre

The Legal and Human Rights Centre provides legal and human rights expertise to victims of mining abuses. Regional miners associations and community-based organisations in Arusha, Morogoro and Mwanza have also been formidable partners in the fight for reforms and protection of community rights.

Despite the efforts by CSOs and CBOs many of the above challenges still persist. NGOs and CBOs continue to raise awareness about the plight of small-scale miners and other victims of large-scale mining activities, even though the chances of actually winning their rights are slim given the fragile nature of their security of tenure and the other challenges faced, including relatively weak resources and capacity. The civil society does not have a broad-based domestic constituency and its voice is not very strong in the country. The civil society is fragmented, and there are few coalitions. This has limited their ability and strength in pushing for various reforms in the sector. Nevertheless they continue to develop and to make some effort towards improvements in the ERI and have even had some successes. For example, there has been some development in curbing child labour in mining areas like Mirerani.

7.2 Gender Issues and Mining in Tanzania

A substantial number of women are involved in mining activities, where they are actively participating in various mineral production activities, including: extraction, transportation, and processing as well as in selling food and supplies to the miners. Female participation in the mining sector is no smooth ride, and it is hindered by various obstacles including, taboos, socio-cultural factors, financial and economic struggles (ECA, 2002). Many lack formal education, which hinders their ability to deal with formal lending institutions. The requirement of property for collateral is an additional barrier to obtaining credit as most property is under traditional joint ownership with spouses. Women often require their husbands' consent for loan applications. Time constraints are another adversity facing women, who generally bear the traditional triple burden of household chores, tending to children

as well as being engaged in making a livelihood. Traditional male and female roles may also discourage female participation in this sector. For instance, in Mirerani a woman might own a claim, but traditions forbid her to enter the mining pit because she might "contaminate" it.

Tanzania Women Miners Association as discussed in Box 7 below is one of the existing civil society organisations working to support women miners to benefit from mineral resources.

Box 6. Tanzania Women Miners Association (TAWOMA)

TAWOMA is a non-governmental and non-profit organization formed in 1997. With a current membership of 192 individuals, its mission is "to facilitate women miners to organize and access required financial, technical and marketing services so that they can carry out mining activities that are both economically and commercially viable and environmentally sustainable and thereby raise the standard of living for women miners and their families." Specifically, its goals are:

- To lobby for support and recognition of women in mining nationally, regionally and internationally
- To identify the training and technical needs of women miners and organize resources required to meet these needs
- To prove relevant market information and facilitate the marketing of mineral products
- To set up a revolving fund to enable women miners to access the necessary funding required for their operations
- To advocate to the government for the rights of women in mining on policy issues and constraints faced by women.

The Association has established an initial portfolio of activities including the establishment of a gem-cutting unit and a resource and information centre. TAWOMA also organizes training and participation in relevant forums. It networks with various private sector mining companies as well as with organizations such the Global Fund for Women and UNIFEM. In the long term, TAWOMA would like to establish the following:

- A centre to rent and test mining equipment and tools
- A lapidary and jewellery production unit
- A skills training centre in mining related fields such as environmentally sound, more efficient mining methods and mineral processing, gemmology, health and safety aspects and the rehabilitation of ecologically sensitive mining areas.

Although women continue to face barriers and problems in their participation in the mining industry, the existence of government policies and CSOs working to improve their situation provides some hope that the situation may improve and provide equal opportunities for them.

7.3 The Media

The mainstream media shied away from the controversial mining debate until about 2000 when investigative reporting picked up. The government's tight control over the media did not do the struggle any favours as well. However, in the past five years the media has become a key campaigner and partner in the struggle for reform in the sector. Newspapers such as *This Day, Kulikoni, Mwanahalisi, Raia Mwema, The Guardian* and *Nipashe* have participated in providing information and publicising the reform process.

7.4 Faith groups

Recently, faith groups in Tanzania have become more active in monitoring the impact of large-scale mining operations on local communities. In January 2008, religious leaders from all the major faiths went on a fact-finding mission to mining communities, and published a report outlining their findings and recommendations. In March 2008, the Christian Council of Tanzania,

Tanzania Episcopal Conference, and the National Council of Muslims in Tanzania published *A Golden Opportunity: How Tanzania is Failing to Benefit from Gold Mining* (Lissu & Curtis, 2008). This report outlines how the current mining tax regime in Tanzania favours the interests of the shareholders of trans-national mining companies above those of Tanzanian citizens, who have seen very little revenue accrue to government and local communities from gold extraction.

The Norwegian Church Aid has used the findings and recommendations of *A Golden Opportunity* to put pressure on the Norwegian government's sovereign pension fund, which has shares in the two main companies investigated in the report – the South African-headquartered and listed Anglo Gold Ashanti, and the Canadian-headquartered and listed Barrick Gold – to investigate their human rights and tax practices.

Christian Aid has been using the findings of the report to raise awareness of the need for a new international accounting standard that increases the transparency of the accounting and tax practices of MNCs. In 2009, it launched a campaign, as a member of the Tax Justice Network, targeted at the UK government, European Union member states and the International Accounting Standards Board, which sets international corporate accounting standards and is working to introduce a new mandatory country-by-country international financial reporting standard. Such a standard requires all multinational companies and their subsidiaries to report all their remittances to the host government and other institutions in each of the countries where they or their subsidiaries operate. The Publish What You Pay Coalition is already in discussion with the IASB to introduce country-by-country reporting standards in the extractive industry. This will provide citizens and other users of financial reports in countries where these companies invest with information on taxes, royalties and other financial transfers to government, thus assisting them in monitoring the use of this revenue.

7.5 The Government of Tanzania

Mining investment has been a big political agenda in Tanzania since the introduction of the big players in the 90s. Today, the political field is significantly shaped by how political parties' handle mining issues.

One of the key issues in the post-2005 general elections was the promise to effect legal and policy reforms in the mining sector. President Kikwete's government has made an attempt to improve this situation. There has been a change for the better under the current regime in terms of creating space for dialogue, consultation and attempts towards revival of the country's national interest and pride. A number of major incidents have demonstrated increased public awareness and government involvement in the reform of this sector, including:

- The Strategy for Africa Mining Paper, 1992
- Mineral Sector Development Technical Assistance Project, 1995
- Canadian High Commission in Tanzania arguments in the matter of the legal claims of local miners and Sutton resources in Bulyanhulu.
- Mineral Policy 1997 and Mining Act 1998 following heated debate in the Tanzania. Parliament.
- The Investment Act 1997
- Enactment of Financial Laws (Miscellaneous Amendments) Act, 1997.
- Mangenya Mining Committee on Mererani conflicts, 2001.
- Barrick Gold mine at Bulyanhulu, opened by

Tanzanian President Benjamin W. Mkapa in July 2001.

- Approval of a new organisational structure of the Ministry of Energy and Minerals in April 2001 to fit with these changes.
- Bulyanhulu International NGO fact-finding mission, 2002.
- Mboma Commission on Mererani conflicts, 2002.
- Kipokola Mining Policy Review Committee, 2004.
- Election of Jakaya Kikwete to the Presidency and promise for mining reforms, 2005.
- Masha Mining Agreements Review Committee, 2006.
- Bukuku Committee to negotiate with mining companies.
- Fierce political and public debate over mining contracts; opposition legislator, Zitto Kabwe tables a private motion seeking to investigate the Buzwagi mining contract in Parliament. The motion is defeated and Kabwe is suspended from Parliament for four months, 2007.
- Bomani Presidential Mining Sector Review committee, 2008.
- Canadian High Commission lobbies Tanzanian parliament and government to reject the Presidential Mining Sector Review Committee recommendations, June 2008.
- Africa-Canada Forum writes to Canadian Foreign Office seeking an explanation for the claims of Canada's interference in the mining reforms recommendations yet to be tabled before the Tanzanian Parliament.
- Zitto Kabwe, Member of Parliament for Kigoma North asks Prime Minister Mizengo Pinda to explain whether the fast- tracking of FIPA talks was meant to block Presidential Mining Committee's recommendation from coming into play, July 2008.
- Tanzania signals intention to join EITI in Nov 2008.
- Formation of the 1st multi sectoral committee to oversee EITI process in Dar es Salaam, Feb 2009.

The Tanzanian government has mostly intervened through the formation of various committees to solve conflict and formulate strategies to accelerate the growth of the mining sector and its contribution to the GDP.

7.5.1The Presidential Commission

The government appointed a presidential commission headed by Judge Mark Bomani. This commission, commonly known as the Bomani Commission, was set up to investigate the mining sector and review mining contracts. The commission was established in 2007 and presented its findings between June and July 2008. It recommended a number of measures to increase the Tanzanian government stake in the mining industry. These included increased royalties and government stakes in commercial companies, fewer tax exemptions for new investors, timely and fair compensation for communities displaced by mining as well as procedures for repairing environmental damage (news notes, 2008).

7.5.2 Publish What You Pay Campaign PWYP/Extractive Industries Transparency Initiative (EITI) in Tanzania

ForDIA (2009) reveals that the Tanzanian government and various CSOs in the country have expressed the desire to participate in various accountability and transparency initiatives, including the Extractive Industries Transparency Initiative (EITI) and Publish What You Pay (PWYP) campaign. These seek to reinforce transparency and accountability in Tanzania's Extractive Resource Industry. Under this arrangement, companies will be expected to publish to the general public what they earn from investments

Publish What You Pay (PWYP) is a global civil society coalition founded in 2002, by various organisations including: Global Witness, Open Society Institute, CAFOD, Save the Children UK, Transparency International and other organisations that helps citizens of resource-rich developing countries hold their governments accountable for the management of revenues from the oil, gas and mining industries. PWYP works with civil society groups in nearly 70 countries. It campaigns for the mandatory disclosure of company payments and government revenues from the oil, gas, and mining sector. The coalition also calls for the disclosure of licensing arrangements and extractive industry contracts.

and pay to the government (Publish What You Pay). The government will be expected to publish what it earns from the companies (Publish What You Earn). It will also be required to publish the distribution of revenues it receives from companies exploiting extractive resources. The companies will also be expected to publish what they should have paid, according to international norms and standards.

Tanzania was accepted as an EITI candidate country in February 2009. Any country that satisfies the EITI board that it has satisfied four sign-up indicators (issuance of a government announcement, a commitment to work with all stakeholders, appointment of an implementation leader and the composition, agreement on and publication of a work plan that is acceptable to all stakeholders) is accepted to the EITI as a candidate country and it has two years to be validated as a 'compliant country'. There are currently some 21 candidate countries in Africa.

According to its website, the Extractive Industries Transparency Initiative (EITI) strives 'to set a global standard for transparency in oil, gas and mining'. It is an effort to make natural resources benefit all citizens of the countries where such resources are exploited. The EITI aims to strengthening governance by improving transparency and accountability in the sector. It is a coalition of governments, companies, civil society groups, investors and international organizations. Launched in 2002, as of June 2009, EITI was being implemented in 30 resource rich countries around the world.

7.6 Members of Parliament

For a long time Members of Parliament from mining areas have voiced a number of concerns related to the limited benefits their constituents receive from the mining companies and the loss of livelihoods resulting from relocations caused by large-scale mining. LEAT (2003) reports on how the late Bhiku Mohamed Salehe, the Member of Parliament for Bulyanhulu and outlying areas told a session of Parliament in 1996 about the plight of 200,000 small-scale miners, peasant farmers and their families who were to be evicted from what had previously been declared as an area for small-scale mining. Unfortunately, the efforts of the MP did not bear fruit. The villagers were evicted.

Mining issues fall under the Natural Resources and Environmental Committee within the Tanzanian parliament. This is the first place where MPs have a chance to question the government and to debate planned bills before they are tabled in Parliament. The MPs have used the Standing Committee and the main parliamentary debates to raise their concerns regarding the capacity of the government to regulate and control mineral exports in terms of valuation and custom controls. In response to the perceived losses incurred by the Tanzania mining sector, MPs (both from the ruling party, but especially from the Opposition) have been the most engaged in trying to influence the management of mining in the country. The parliamentarians have called on the government to report to the relevant parliamentary committees on all aspects of the mining sector's operations. The Tanzania Parliament has also sought to undertake a comprehensive audit of the mining sector revenue and costs. These measures

have begun to bear fruit. Recently, a minister responsible for mining[13] was forced to resign because of, among other things allegations of corruption related to the signing of one of the Mining Development Agreements.

Unfortunately, the attempts by parliamentarians to contribute to reform have not been smooth and there have been numerous attempts to silence them. For example in the 14th Parliamentary session ending in April 2009, the government threatened to take criminal action on Members of Parliament who use government documents acquired unofficially in the fight against corruption in the energy and mining sector. The Government did not explain how Members of Parliament could legally acquire these documents without prejudice as contracts signed in the extractive industries continue to remain secret. In August 2007, opposition parliamentarian Zitto Kabwe was suspended because he tried to table a motion in the National Assembly to set up an investigation into the signing of an agreement for the Buzwagi gold mine (Tanzanian Affairs, 2008) During this meeting Zitto Kabwe had questioned the fast-tracking of the signing of the contract between the government and Barrick gold, and requested that the parliamentary committee be tasked to investigate the mining contracts signed between the government and the investors. He also mentioned that the ongoing mining review process was marred by irregularities and questioned the removal of a provision of the Income Tax Act of 1973 on the 15 percent capitalisation allowance on un-redeemed qualifying capital without parliamentary approval (Swahilli Times, 2007).

Efforts by parliamentarians to deal with injustices in the mining business in the country are also frustrated by the fact that there is very little data available to the public, the media or Parliamentarians on mining contracts and revenues. Meanwhile, a number of Tanzanian leaders have been invoking the laws on National Security and Civil Service Secrecy as excuses for non-disclosure.

7.7 Conclusion

Various attempts have been made to reform the industry with mixed results. Some of the failures have been attributed to the fact that at the moment, Tanzanian organisations that work on mining-related issues are not organising and mobilising together as a network or coalition. As a result, they are less able to use their collective strength to achieve change. By strategising and planning collectively, they could gain bargaining power, build on each others' strengths, and therefore be better able to engage more effectively with investors and push the government to adopt and implement various recommendations, for example those of the Bomani Commission and other mining reviews. As a coalition, they could also be able to strengthen the EITI process in Tanzania and collectively draw on the solidarity of organisations based in the home countries of mining corporations to lobby and campaign for financial transparency and protection of the human rights.

13 Nazir Karamagi was forced to resign in February 2008.

PHOTO: © Courtesy

Conclusions and implications

8

The main concern addressed in this study is why Tanzania's has been unable to translate its vast mineral resource endowment into national wealth and improved standards of living for the Tanzanian people. The discussion takes into consideration the fact that Tanzania is a relatively late entrant to liberalisation and privatization: the exploitation of its resources within this context is, by African standards, a new phenomenon.

Over the past two decades, the increased FDI flows into the extractive mineral sector has made some important macroeconomic contributions. However, there is still little to show in terms of the direct benefits for the majority of Tanzanians. This could be one of the reasons for strong prevailing perceptions that the mineral wealth benefits only a small section of the population, and 'outsiders'. This perception gap will need to be narrowed or else it will increasingly become a cause for rising discontent. There is evidence from other countries in the region – such as Botswana and Ghana that mineral wealth can contribute to reducing poverty levels whilst contributing to growth and development of the country. How this could happen in Tanzania is certainly an area for further dialogue and action.

It will certainly be useful for Tanzania to assess its achievements thus far with a view to understanding how it could improve the performance of its governance and economic institutions to ensure that they can contribute appropriately to the quest for economic growth and reduced poverty. Indeed, the goal should be that of ensuring that it is categorized as a 'best in class' country, one that has well formed policies and robust institutions.

Factors that may contribute to a resource curse situation

Various factors have been presented by Upton (2009) to explain causes for the resource curse in developing countries. It has been argued that these are often political in nature and relate to the

role of the government and include:

- A widening gap between the electorate and the governing class, the latter which is regarded as increasingly less responsive to tax payers concerns as their reliance on non-resource based taxes falls.
- Bad decision-making, which often accompanies large windfall revenues to governments.
- Corruption and rent-seeking behavior, the dual temptations which are increased by large government revenues and exacerbated by the unmovable nature of mineral deposits and therefore mining operations, limiting companies' choices of operating location.
- Industrial policy, which in some resource-rich countries has tended towards import substitution and a failure to promote a competitive manufacturing sector.

Mitchell (2006) emphasizes that the challenges in creating the right national governance conditions are substantial to the performance of the ERI. Weaknesses in public institutions are a key factor in inhibiting broad-based economic growth and poverty alleviation. Generally speaking, national governments in poor countries do not have the capacity to plan, finance and implement the substantial physical and social development programmes necessary to achieve large-scale poverty reduction, and these weaknesses are much more pronounced at provincial and local government levels which are often ultimately responsible for on-the-ground provision of infrastructure and services.

Success Stories

Mineral rich countries need to invest appropriately in creating the required capacity and adapting institutions to manage their resources. With developing countries in particular, if this is approached with careful thought and reform, then the existence of mineral resources need not be a harbinger of disaster.

Ghana

Ghana is an example of a developing country where mining has contributed positively to growth and development by reducing poverty and improving the lives of people. Ghana's experience thus demonstrates that mining can sustain growth in a previously failing economy with the aid of economic and institutional reforms. Although Ghana's is still a poor country, the recent resurgence in large-scale mining since the 1980's has played a major role in turning around the national economy and reducing poverty at the national and local levels. Ghana is now considered one of the more stable African economies (Upton, 2009).

Chile

Chile is another example where large-scale mining has positively contributed to the economy and improved the lives of its people. This has been attributed to the success with which the government has used tax and royalty income from mining to fund social development programmes. Currently, the country leads South America in terms of GDP per capita (US$ 14,510 according to 2008 IMF estimates). In Chile, services have taken on increasing importance in the economy relative to mining, and although the mineral sector continues to dominate exports, the country has succeeded in diversifying its exports to become a significant exporter of fruits and manufactured goods such as building products, industrial chemicals and wine. Chile's significant FDI is largely represented by the mining sector, which accounted for a third of all FDI during the 30-year period from 1974 to 2004. FDI in services has also grown rapidly, overtaking mining in recent years (Upton 2009).

A study by the International Council on Mining and Metals (ICMM)[14] showed that the mining industry has contributed to marked improvements

14 *Cited in Upton, 2009.*

in Chile's general macroeconomic health since the late 1980's. These have translated into improvements in living conditions and poverty reduction. The proportion of Chileans living below the poverty line decreased by 50 percent between 1990 and 2000. These gains have been most substantial in the mining-related regions of the country.

Lessons for Tanzania

A 2006 ICMM Review (cited in Upton 2009) argues that government reform of mining laws has been an identifiable common denominator in mining's contribution to positive economic development.

Towards Improved Negotiation of Contracts

As discussed in section 5.0, the agreements and contracts Tanzania has signed with its investment partners remain a contentious issue, as the welfare of the Tanzanian people appears to be overlooked. The incentives given to encourage increased foreign investment such as tax exemptions and low royalty rates are allegedly a factor in diminishing government revenues from mining. Additionally, foreign investors are given a number of rights to Tanzania's resources including land and forests, while the contracts are not robust enough to ensure a substantial contribution of mining activities to development. The issue of proper closure of the mines once operations have ended is disregarded. And it is almost impossible to adjust any flows in existing contracts as most of them have stabilization clauses, which serve to deter the government from a possible review upward, or adjustment of the contracts over the lifespan of the project; subsequent legislation thus does not apply to the relationship between the parties to signed agreements.

As discussed by Radon[15], the negotiation process and the engagement of expert negotiators are the unheralded and often overlooked means for a developing country to exploit its mineral resources successfully, profitably and at a relatively low cost for national advancement. The negotiation process should strive to achieve a reasonable and mutually acceptable balance between the interests and concerns of the investor and those of the nation as represented by its government. On the whole, expert advisors are the motor of successful negotiations.

Negotiations should be sensitive to time factors such as market conditions; the host countries current political and economic situation; and should reflect present expectations on how these factors will change in the future. These expectations need to find expression in a contract that withstands the challenge of time by anticipating and providing for foreseeable and unforeseeable changes and demands.

It would be prudent for the government to ensure that a number of obligations are incorporated into the contracts at the negotiation stage with a view to ensuring broader benefits for the local population. Some examples include: the requirement to train local staff with a view to having them take up management positions; ensuring that local firms are involved in all bidding processes; required investment in research and development projects to deepen local knowledge and broaden education so as to build skills required to nurture local industry (Policy Forum, 2008).

All in all, the negotiation phase is a very crucial stage in the performance of the ERI and should be treated as an investment. The negotiation of contracts requires significant investment of time and money in assembling a team of experts to conduct the negotiations (Radon, 2007). The Tanzanian government should therefore ensure that it is able to build into its ranks the

15 Jenik Radon, How to negotiate an oil agreement in Macartan Humphreys et al, Escaping the Resource Curse, Columbia University Press, New York, 2007

requisite expertise to negotiate on its behalf. The negotiating teams will eventually need to be very knowledgeable in various associated fields that would include for instance, law, environment and engineering.

Transparency

The secrecy in which many mining agreements are drafted, and the lack of involvement of the citizens in decision-making and information regarding the countries resources has been a major source of mistrust and disgruntlement in Tanzania. Thus transparency and accountability are important issues for the industry. Transparency includes the disclosure of the terms of contracts and the payments due. According to Radon (2007), transparency is the key to achieving public acceptance of a contract. It is a necessary condition to allow civil society and the public to provide an informal mechanism of checks and balances where formal mechanisms are not adequate. Transparency is the only way to dispel the constant concerns of greed and corruption often associated with mineral contracts and it prevents government officials from agreeing to terms that the citizens may deem unacceptable and subject to constant criticism and attack.

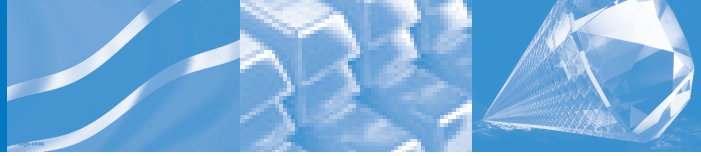
The "Publish What You Pay" campaign and the Extractive Industries Transparency Initiative (EITI) may help provide solutions to many of the Tanzanian citizen's concerns. The resulting publicity and sharing of information will contribute to handling the problem of corruption, and also strengthen the resolve of government negotiators who know that they will need to publicly justify, explain and defend the contractual terms of the agreements. Publicised information on tax collection will help to ensure that revenues are allocated appropriately and for the development of the country. Thus Tanzania's March 2009 announcement of its participation in the Extractive Industries Transparency Initiative (EITI) provides an avenue for some of the concerns expressed with regard to the industry to be comprehensively addressed.

Respect for Human Rights and the Environment: The role of governments and investor companies

Once minerals are discovered in an area, the decisions made regarding the future of the locale, cease to be in the hands of the indigenous owners. Such people are often excluded in decisions made regarding their land and their consent is not sought in determining their future. As a result some Tanzanians have had to lose their long-established homes and livelihoods with little compensation. (JMT, 2008b)

Moreover mining activities are known to have negative impacts on the environment as discussed in Section 6.0. The immediate and surrounding neighbourhoods sometimes find themselves facing the impacts of deforestation and well as air and water pollution. The ICMM recognizes that the issue of human rights and corporate social responsibility are major concerns for the mining industry today. They correctly observe that human rights are universal values that should be respected and that this, as well as the respect of customs, cultures and values is a vital aspect of sustainable development. There is broad acceptance that governments have primary responsibility for the protection of the human rights of their citizens; private companies cannot be expected to substitute for state responsibility as they have neither the political mandate nor the mandate from their shareholders to assume this responsibility (ICMM, 2009).

The ICMM publication also presents some relevant insights to dealing with the issue of human rights under the "Protect, Respect and



Remedy" framework. This comprises three core principles that define different but complimentary responsibilities, including: the duty of the state to protect its citizens against human rights abuses by third parties including businesses; the corporate responsibility to respect human rights and the need for access to remedies in the event of disputes over the human rights impacts of companies (which according to them is largely a state responsibility but may also include non-judicial mechanisms). Thus whereas companies may undertake additional voluntary commitments in relation to human rights they are not exempt from the responsibility to respect human rights.

In addition, as Mitchell (2006) argues, investors must aim to become a welcome partner in emerging economies rather than being a front of political controversy. They can do this by working effectively with local partners and international agencies and illustrating superior business practices wherever they operate. The outstanding question for Tanzania is the extent to which the government and the mining companies in the country are carrying out these duties.

The environmental aspects of mining have proven to be controversial, and in this regard, the contribution of the mining companies to preserving the environment and limiting the damage caused by mining operations needs to be carefully considered. Whilst the mining companies might put in place measures to ensure that they do minimum harm through their operations, specific legal frameworks might need to be established to ensure that there is compliance and mechanisms for redress as might be required.

The value of environmental impact assessments (EIAs) also needs to be contextualized and addressed appropriately by the involved stakeholders. These EIAs need to be followed through for the duration of the mining projects and not only at implementation stage even though admittedly, this is the trickiest part of the EIA. Many communities lack the capacity to negotiate and in this regard have frequently ended up losing out on their claims and interests to the twin juggernaut of the investors and the government. In this respect, a cost-effective and impartial process that can monitor and address the impact of mining projects needs to be considered and effected as might be the case.

In particular, the question of what happens when mining operations cease is of critical importance. Thinking through the life cycle of the mining process is something that needs to be planned for at the outset, rather than at the point when operations are winding down. The rehabilitation of old and abandoned mining sites has traditionally been left to the governments, an assumption which has presented various challenges. In Tanzania, the implementation of the 1999 Mining (Environmental Management and Protection) Regulations needs to be guaranteed, and in particular the fund which is supposed to cater for environmental restoration upon termination of mining activities needs to be established as a matter of priority.

In sum, Tanzania needs to consider carefully which path it wants to take with respect to the ERI and whether it wants to be considered among the "best in class" countries. The Tanzanian government has a crucial role to play in deciding which direction the country will go. The country's citizens and its civil society should also work towards increasing their involvement and participation in implementation and decision-making regarding the exploitation of their resources by holding the government accountable and closely and independently monitoring the activities of the mining industry.

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Annex I: Data on Mining in Tanzania

1. Tanzania's Mineral Endowment

Table 1 below presents Tanzania's proven mineral reserves by type and amount. In addition to this list, there are indications that a lot more are yet to be discovered. For example, a number of uranium deposits are known to exist. Since 2007, there has been a sharp increase in exploration for uranium and at the moment about 20 foreign companies are involved in this activity in southern and central regions of the country. Also, according to This Day (28 September 2008), a British firm named African Eagle Resources announced it had found rich deposits of nickel at Dutwa near Lake Victoria. These new discoveries are in addition to the already established nickel reserves at Kabanga near Tanzania's border with Burundi.

Table No.1: Proven Mineral Reserves in Tanzania

Type of Mineral	Amount
Gold	2,222 tonnes
Nickel	209 million tonnes
Copper	13.65 million tonnes
Iron Ore	103.0 million tonnes
Diamonds	50.9 million carats
Tanzanite	12.60 tons
Limestone	313.0 million tonnes
Soda Ash	109 million tonnes
Gypsum	3.0 million tonnes
Phosphate	577.04 million tonnes
Coal	911.0 million tonnes

Source: Geological Survey of Tanzania, 2007

2. The Current Mineral Exploration and Exploitation Boom

In recent years, Tanzania has risen from an insignificant gold producer in the early 1990s to become the third largest producer of gold in Africa after South Africa and Ghana. The country is currently producing over 50 tonnes of gold per annum, but there are ample opportunities for increasing the output, as a lot of exploration is going on, and new licences continue to be issued as illustrated in table 2 above.

Table No. 2: Mining Licences Issued between 2000 and 2007

YEAR	2000	2001	2002	2003	2004	2005	2006	2007	Total
Reconnaissance Licence	6	8	16	34	57	105	48	155	429
Prospecting Licence (PL)	199	186	225	263	515	782	198	607	2975
Mining Licence	19	47	16	17	30	57	19	28	233
Primary Mining Licence (PML)	0	562	701	550	1,688	666	628	1933	6728
Dealers Licence	34	62	149	105	101	67	170	305	993

Source: Data from Ministry of Energy and Minerals, 2008

Table 3: Gemstone Occurrences and Geological Environments

Gemstone Species/Group	Variety	Typical Environment	Locations
Ceyl	Emerald	Schists and gneisses (granulite)	Manyara, Mang'ola-Mbulu, Ponda near Sumbawanga
	Aquamarine	schists and gneissess (granulite)	Namtumbo-Songea, Loliondo
Chalcedony	Chrysoprase	Nickeliferousultramafic rocks	Haneti Hill – Dodoma
	Agate	Sedimentary rocks	Kasulu, Newala
Crysoberyi	Alexandrite, Cat's eye, yellow, green	Alluvial	Muhuwesi river. (Tunduru) and other river-beds joining the Ruvuma rRver.
	Yellow, green	Metamorphosed schists and gneisses (granite)	Manyara
Cordierite	Lolite	Metamorphosed mafic rocks	Babati
Corundum	Ruby	Metamorphosed (granulite) ultramafic rocks or marbles	Longido, Umba Valley, Matombo, Mahenge
	Sapphire	Alluvial	Muhuwesi, R., Umba R.
Feldspar	Moonstone, sunstone, amazonite	Pegmatites	Handeni, Same, Morogoro, Kondoa, Gairo, Zoisa and Mzeri (Korogwe)
Garnet	Almandite, pyrope, hessonite, malaya spessartite, garnet, color-change garnet	Wide variety of igneous/ metamorphic rocks, alluvial	Muhuwesi R. (Tunduru) and other river beds joining the Ruvuma river, Umba R. Valley, Morogoro, Handeni, Korogwe, etc.
	Rhodolite, tsavorite,	Wide variety of metamorphic rocks	Simanjiro District
Kornerubine	Kornerubine	Regionally- metamorphosed rocks	Daluni (Tanga) and Kwakonje – Handeni
Olivine	Peridot	Intrusive ultrabasic serpentinised) rocks, Deep-seated mafic volcanic rocks	Lashaine – Monduli District, Kibakwe near Mpwapwa
Opal	Cat's eye, yellow, brown, white	Volcanics,meta-volcanics and sedimentary rocks	Nyakachacha (A&B), Kitema, Nyenge,Migunga, Nyaitonto – Kasulu District

Source: URT 2005

4. Ownership, Location and other Features of Major Mining Ventures in Tanzania

Table 4 below presents the major mining ventures existing in 2005, while Table 5 presents a summary of information about their ownership, location, employment etc.

Table 4: Mining Ventures as of April 2005

Company	Mineral	Location	Status
Williamson Diamond Ltd.	Diamond	Mwadui	Active,; open-pit mine
Resolute Gold – SAMAX JV	Gold	Golden Pride Nzega	
Afrika Mashariki Gold Mines, Ltd./ Placer Dome Inc.	Gold	Nyamongo, North Mara	Active,; open pit mine 2001
Kiwira Cola Mine	Coal	Songwe-Kiwira	Active;, underground mine
Barrick Gold Corporation	Gold	Bulyanhulu	Active; underground mine 2000
Ashanti/Anglogold	Gold	Geita	Active; open pit 2001
Barrick Gold Corporation	Gold	Tulawaka	Active; open pit 2005
AFGEM	Tanzanite	Merelani Arusha	Active; underground ,2002
Meremeta ltd.	Gold	Buhemba	Active; underground, 2003
Minjingu Phosphate Co. Ltd.	Phosphate	Minjingu	Active; open pit mine
Pugu Koalin Mines Ltd.	Kaolin	Pugu	Suspended, 12/1990
Longido Gemstones Mining Co. Ltd	Ruby	Longido	Active; underground mine
Afro-Asian Precious Stones	Ruby	Umba	Active; open pit mine
Tanga Cement Co. Ltd	Limestone/ Sandstones	Tanga	Active; open pit mine
Mbeya Cement Co. Ltd	Limestone/ Sandstones	Mbozi & Mbeya	Active; open-pit mine
Tanzania Portland Cement co. Ltd	Limestone/ Sandstones	Dar es Salaam	Active; open pit mine
Nyanza Salt Mines	Salt	Uvinza	Active; brine springs
Coastal Salt Works Co.Ltd	Salt	Bagamoyo	Active; solar salt pans
J.H. Stanley	Salt	Bagamoyo	Active; solar salt pans
Tanzania Oxygen Ltd	Carbon Dioxide	Rungwe (Kyejo)	Active; gas-tapping
Kibo Match Corporation	Salt	Moa-Tanga	Active; solar salt pans

Source: URT 2005

Table No. 5: Ownership, Location and other Features of Major Mining Ventures in Tanzania

Name of Mine and Owner	Location	Employment	Total Investment (in Million US$)	Total Payment of Taxes and Royalties (in Million US$)	Proven reserves (million ounces)	Current annual production (ounces)	Lifespan of the mine (years)
Buzwagi Gold Mine. Owned by Pangea Minerals Ltd; Subsidiary of Barrick Gold Corporation (Canada)	Kahama District, Shinyanga Region	696; of whom 630 Tanzanians 91%).	372	Production yet to start	2.4	225,000 (Expected)	10
Bulyanhulu Gold Mine. Owned by Bulyanhulu Gold Mine Ltd; Subsidiary of Barrick Gold Corporation (Canada)	Kahama District, Shinyanga Region	1,913; of whom 1,710 Tanzanians (89%)	610	15.18 (Royalties); 68.28 (other taxes)	13.2	330,000	30
North Mara Gold Mine. Owned by North Mara Gold Mines Ltd; Subsidiary of Barrick Gold Company (Canada)	Tarime District, Mara Region	1,103; of whom 923 Tanzanians (84%)	Figures not available	9,5 (Royalties); 20.92 (other taxes)	3.8	269,000	12
Tulawaka Gold Mine. Joint Venture between Pangea Minerals Ltd (Subsidiary of Barrick Gold Company (Canada) (70%) and Minieres du Nord (Canada) 30%)	Bihara-mulo District, Kagera Region	508; of whom 481 Tanzanians (95%)	Figures not available	2.0 (Royalties); 5.2 (other taxes)	0.565	120,000	5

Name of Mine and Owner	Location	Employment	Total Investment (in Million US$)	Total Payment of Taxes and Royalties (in Million US$)	Proven reserves (million ounces)	Current annual production (ounces)	Lifespan of the mine (years)
Geita Gold Mine. Owned by Anglogold Ashanti Limited	Geita District, Mwanza Region	2,296; of whom 2,222 Tanzanians (97%)	450	36.0 (Royalties); 37 (other taxes)	16.95	560,000	20
Golden Pride Gold Mine. Owned by Resolute Tanzania Ltd.		619; of whom 604 Tanzanians (98%)	370	11.4 (Royalties); 16.95 (other taxes)	2.47	180,000	12
Mwadui Diamond Mine. Joint Venture between Wilcroft Company (Subsidiary of De Beers Group (South Africa) (75%) and Government of Tanzania (25%)	Kishapu District, Shinganya Region	967; of whom 959 Tanzanians (99%)	Figures not available	8.4 (Royalties); 16.9 other taxes	50.9 million carats	250,000 carats	Figure not available
El Hillal Diamond Mine. Owned by El-Hillal Minerals Ltd; a Tanzanian company	Mwadui area; Shinyanga Region	220 (all Tanzanians)	Figures not available	0. 300 (Royalties and other taxes)	Information not available	Up to 2007 managed to produce 30,000 carats, worth US$ 6 million	Information not available
TanzaniteOne Mine.	Simanjiro District, Manyara Region	599 of whom 579 Tanzanian (97%)	20	1.47 (Royalties); 5.5 (other taxes)	Information not available	Information not available	Information not available

5. Contribution of the Mining Sector to the Country's Economy

In recent years the mineral sector has registered rapid growth in terms of FDI, mineral exports and foreign exchange earnings. However, in spite of the impressive growth figures, many people in Tanzania have voiced serious concerns about how little the country is benefiting from large- scale mining, particularly gold mining. Tables 6-8 below show the contribution of the sector to the country's economy.

Table No. 6: Value of Exported Minerals between 1998 and 2007 (US$ million)

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Diamonds	11.10	26.40	45.80	30.60	28.13	31.86	33.68	25.35	25.91	28.91
Gold	3.30	39.80	120.50	256.80	374.33	504.14	596.62	639.63	772.06	888.87
Gemstones	8.10	14.00	18.50	18.80	19.77	19.05	26.89	40.53	31.01	35.58
Salt						1.32	2.05	1.63	2.00	2.17
Phosphates					0.04	0.06	0.51	0.03	0.28	0.72
Silver				1.00	0.95	1.32	2.95	1.60	5.54	5.32
Copper				5.01	6.54	7.33	12.17	11.64	19.90	21.06
Total	**22.50**	**80.20**	**184.80**	**312.21**	**429.76**	**565.07**	**674.87**	**720.41**	**856.70**	**982.63**

Source: Data from Ministry of Energy and Minerals, 2007

Table No. 7: Export Figures from Major Mining Companies 2001-2007 (US$ million)

Mine	2001	2002	2003	2004	2005	2006	2007	Total
GOLD								
Golden Pride	48.2	44.5	60.2	63.6	66.6	82.4	98.8	464.3
Bulyanhulu Gold Mine	52.2	114.4	96.5	134.9	125	181.3	170	874.3
Geita Gold Mine	148.5	176.6	232.3	307.6	271.6	184.7	227.7	1549
Buhemba Gold Mine	0	0	27.8	34.3	29.9	28.7	0	120.7
North Mara Mine	0	0	70.3	89.4	111.1	219.9	167	657.7
Tulawaka Gold Mine	0	0	0	0	50.7	89.3	124.5	264.5
Sub-Total	248.9	335.5	487.1	629.8	654.9	786.3	788	3930.5
DIAMONDS								
Mwadui	15.9	13.1	22.5	31.1	22.5	19.2	22.3	146.6
El Hillal mine	0	0	0	0.5	1.8	3	2.2	7.5
Sub-total	15.9	13.1	22.5	31.6	24.3	22.2	24.5	154.1
								0
Total	**264.8**	**348.6**	**509.6**	**661.4**	**679.2**	**808.5**	**812.5**	**4,084.6**

Source: Bank of Tanzania, 2007

Table 8: Contribution of the Mining Sector to the GDP between 2002-2007

	2002	2003	2004	2005	2006	2007
Contribution of mining to GDP in millions Tshs)	220,000	288,200	357,368	457,431	576,363	742,932
% Contribution of the mining sector to the GDP based on 2001 prices	1.9	2.1	2.3	2.4	2.6	2.7
% Real GDP Growth for the mining sector based on 2001 prices	16.9	17.1	16.0	16.1	15.6	10.7
Price of Exported Minerals (In US Dollars)	440.260	565.080	674.870	727.448	836.9	886.6

Source: JMT (2008:83)

Table 9: Gemstone Occurrences and Geological Environments

Gemstone Species/Group	Variety	Typical Environment	Locations
Ceyl	Emerald	Schists & gneisses (granulite)	Manyara, Mang'ola-Mbulu, Ponda near Sumbawanga
	Aquamarine	Schists & gneissess (granulite)	Namtumbo-Songea, Loliondo
Chalcedony	Chrysoprase	Nickeliferousultramafic rocks	Haneti Hill – Dodoma
	Agate	Sedimentary rocks	Kasulu, Newala
Crysoberyi	Alexandrite,Cat's eye, yellow, green	Alluvial	Muhuwesi river. (Tunduru) and other river beds joining the Ruvuma river
	Yellow, green	Metamorphosed schists and gneisses (granite)	Manyara
Cordierite	Lolite	Metamorphosed mafic rocks	Babati
Corundum	Ruby	Metamorphosed (granulite) ultramafic rocks or marbles	Longido, Umba Valley, Matombo, Mahenge
	Sapphire	Alluvial	Muhuwesi, R., Umba R.
Feldspar	Moonstone, sunstone, amazonite	Pegmatites	Handeni, Same, Morogoro, Kondoa, Gairo, Zoisa and Mzeri (Korogwe)
Garnet	Almandite, pyrope, hessonite, malaya spessartite, garnet, color-change garnet	Wide variety of igneous/ metamorphic rocks, alluvial	Muhuwesi R. (Tunduru) and other river beds joining to Ruvuma R., Umba R. Valley, Morogoro, Handeni, Korogwe.
	Rhodolite, tsavorite,	Variety of metamorphic rocks	Simanjiro District
Kornerubine	Kornerubine	Regionally metamorphosed rocks	Daluni (Tanga) and Kwakonje – Handeni
Olivine	Peridot	Intrusive ultrabasic serpentinised) rocks, Deep-seated mafic volcanic rocks	Lashaine – Monduli District, Kibakwe near Mpwapwa
Opal	Cat's eye, yellow, brown, white	Volcanics,meta-volcanics and sedimentary rocks	Nyakachacha (A&B), Kitema, Nyenge,Migunga, Nyaitonto – Kasulu District

Source: URT 2005

Annex II: Types of Licences

Prospecting Licence:

This licence is granted for an initial prospecting period not exceeding three years, except in the case of an application for gemstones, where the period may not exceed two years and is not subject to renewal. A Prospecting Licence covering a preliminary reconnaissance for all minerals other than building materials and gemstones may be granted for a period not exceeding two years. The holder of a Prospecting Licence is conferred the exclusive right to carry out prospecting operations in the prospecting area for minerals to which the licence applies.

Retention Licence

The holder of a Prospecting Licence, other than a Prospecting License for building materials or gemstones, may be granted a Retention Licence for a period not exceeding five years and this may be renewed for a single period of five years. The Licence grants a holding period when an exploration programme and feasibility studies have identified the existence of a significance ore body, which cannot be immediately developed as a mine because of adverse market conditions.

Special Mining Licence

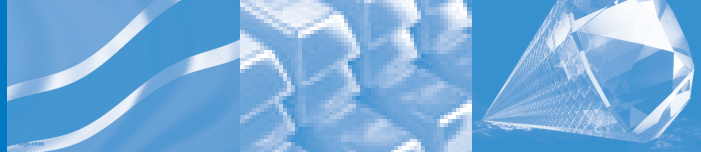
This licence is granted in respect of the development and production stages of a large mining operation. The licence may be granted for a period not exceeding 25 years or the estimated life of the ore body, which it is proposed to mine, whichever is shorter. The licence may be renewed for a period not exceeding 25 years. Application for a Special Mining Licence must be accompanied by a proposal of mining operations, Environmental Management Plan (EMP), a proposal on employment of citizens of Tanzania, and an Environmental Impact Assessment (EIA). The license confers on the holder the exclusive right to carry on mining operations in the mining area and to dispose of any mineral product recovered.

Mining Licence

This licence is granted in respect of the development and production stages. The licence may be granted for a period not exceeding ten years, or the estimated life of the ore body which it is proposed to mine, whichever is shorter. The licence may be renewed for a period not exceeding ten years. The size of a Mining Licence for all minerals other than building materials or gemstones is 10 sq. km.; while for building materials the maximum area is 0.5 km.

Gemstone Mining Licence

This licence confers on the holder the exclusive right to carry on mining operations for gemstones in the mining area. The licence is granted for a period not exceeding ten years, and may be renewed for a period for which application has been made, but not exceeding ten years. According to the Mining Act, no Gemstone Mining Licence (GML) shall be granted to a non-citizen of Tanzania, unless the licence is held by that person in undivided participating shares with a citizen of Tanzania whose share or shares amount to not less than twenty five percent. The maximum area for a GML is 1.0 sq. km. Application for GML must be accompanied by a proposal of mining operations, EMP and EIA. The Minister shall not issue this licence without referring the matter to the Mining Advisory Committee for advice.



Primary Prospecting Licence

This licence authorises the holder to prospect for minerals for any area located in the Zone for which the Zonal Mines Officer has responsibility. The licence is granted for a period of one year, and may be renewed for consecutive periods of one year each. A PPL cannot be granted to an individual who is not a citizen of Tanzania or to a company unless its members are all citizens of Tanzania; its directors are all citizens of Tanzania; and control over the company, both direct and indirect, is exercised from within Tanzania by persons all of whom are citizens of Tanzania.

Primary Mining Licence

This licence confers on the holder the exclusive right to carry on mining operations in the specified mining area. The licence is granted for a period of five years and may be renewed for a similar period. The holder of one or more Primary Mining Licences may apply to convert the licence or licences to a Mining Licence or Gemstone Mining Licence. The maximum size of a PML for all minerals other than building materials shall be 10 hectares, while for building materials the maximum size shall be 2 hectares. A PML cannot be granted to an individual who is not a citizen of Tanzania or to a company unless its members are all citizens of Tanzania; its directors are all citizens of Tanzania; and control over the company, both direct and indirect is exercised from within Tanzania by persons all of whom are citizens of Tanzania.

Annex III: Committees Formed by the Government and their Recommendations

- **Committee to Investigate the Conflict between AFGEM and Small-scale Miners in Mirerani (The Mboma Committee, 2002):**

The committee gave a number of recommendations on the relations between small-scale miners and AFGEM. The committee advised the government to stop issuing more licences to big foreign companies for tanzanite mining. Instead, the remaining area should be reserved for small-scale miners. This recommendation resulted in a government decision in 2007 to set aside a special Designated Area in Mirerani for small-scale miners.

- **The Committee to Review the 1997 Mining Policy (The Kipokola Committee, 2004):**

Public concerns on mining investments prompted the government to set up a Public Inquiry in March 2004, chaired by Dr. Jonas Kipokola, to look into the state of the mining industry and advise the government on the necessary corrective measures. The Committee studied the mineral policy and other related policies, as well as the Mining Act (1998) and other laws. Their intention was to evaluate the implementation of these laws and identify any inconsistencies between policy and law. As it is noted in Maliyamkono and Mason (2006), the Committee made a number of observations on matters of public compensation in connection with mineral exploration and mine development as follows:

- The Mineral Policy is silent on matters of compensation to those who have to vacate their areas to make way for mining operations.
- Compensation crises have emerged in all areas where new gold mines have been opened, yet the government has not adequately addressed the crises based on previous experiences.
- Compensation valuations are undertaken at district levels without involving the stakeholders at the grass roots or village level. This has resulted in many complaints from displaced persons alleging they have not received fair compensation for their properties.
- There are signs of dishonest officials handling compensation matters in areas affected by mine development. This has forced the government to set up commissions to investigate the complaints of displaced populations in mining areas.
- Compensation regulations do not distinguish the type and value of compensation for people making way for mineral exploration and those who make way for mine development (Maliyamkono and Mason, 2006:328).

This Committee gave recommendations on improving the Mining Policy and proposed a better system of supervision for the mining sector. The committee recommended that the government should participate strategically in the ownership of mines through STAMICO and NDC. It was recommended that Tanzanians should be empowered to participate in large-scale mining. Also the committee gave recommendations for sharing mining income; notably calling for thereview of the taxation system for the mining sector, so as to remove unnecessary tax exemptions.

- **The Committee to Review Mining Development Agreements and Fiscal Regime for the Mineral Sector (The Masha Committee, 2006):**

Based on the recommendations of the Kipokola Committee, the Masha Committee reviewed the mining development agreements and gave recommendations on how to improve them. Also, the committee reviewed the fiscal regime for the mining sector; and assessed the performance of institutions charged with the sector's supervision. The committee recommended a dialogue between the government and mining companies on some clauses of the Mining Development Agreements (MDAs) related to existing tax systems. Also the committee recommended changes in the taxation system for the mining sector and the institutions charged with supervision in the mining sector. The recommendations are used in the on-going negotiations between the Government Negotiation Team (GNT) and the investors. Areas recommended for negotiations include the following:

- Harmonisation of tax relief rates for capital allowances with those in the other sectors such as agriculture;
- Removal of the annual 15percent additional capital allowance on unredeemed qualifying capital expenditure;
- Rates for withholding tax to be in harmony with the 2004 Income Tax law.
- To implement Environment Regulations clause under the Mining Law: this requires the relevant minister to create a fund for environmental restoration after the completion of mining activities.

- **The Government Committee to Negotiate with Mining Companies (The Bukuku Committee):**

This Committee was formed to implement the recommendations of the Masha committee, and it continues with the process. So far, as a result of the negotiations, some mining companies have agreed to remove the annual 15 percent additional capital allowance on unredeemed qualifying capital expenditure in their contracts. These companies have started to pay the annual US$ 200,000 to district councils in the mining areas.

- **The Presidential Committee on Mining Review (The Bomani Committee 2008):**

Under the chairmanship of former Attorney General Mark Bomani, this committee was formed by President Kikwete in November 2007 in order to review existing mining and other documents related to commercial mining; evaluate the taxation system in the mineral sector; and review the rights and responsibilities of the investors and the government. The President surprised many people by including in the committee two opposition Members of Parliament, including the famous Chadema MP for Kigoma North, Zitto Kabwe. The Committee noted that, although the National Vision 2025 and the 1997 Mineral Policy envisage that by 2025 the sector should contribute more than 10percent of the GDP, the experience gained from the sector over the past ten years did not show that at the current rate that goal will be attained. The Committee Report (JMT 2008b) lists the challenges facing the sector as follows:

- The contribution of the sector to the GDP is still small.
- The contribution of the sector to the government revenue is not sufficient.
- The relationship between big mining investors and surrounding communities is poor.
- Mining activities cause environmental destruction.
- There are conflicts between big and small miners; investors and their employees; as well as between mining investors and

other land users.

- Weak supervision of the mining sector and legal shortcomings.
- Inadequate system and low rates of compensation.
- Lack of provision of alternative areas for those who give way to mining activities.
- Weak linkage of the mining sector to the broader national economy.
- Inadequate information being provided about the mining sector.
- Local governments in mining areas not getting a share of the income from mining activities.
- Poor or lack of road, rail, port and power infrastructure.

The Committee made a number of recommendations. The most important are as follows:

- The government should form an independent Mineral Authority like in Ghana, with oversight mandate to develop and oversee the mining sector.
- The government should maintain shares in major mining companies, and continue to play an active role by developing infrastructure in potential mining areas like Kabanga, but also maintain interest shares of 10 percent% in all major mining companies.
- STAMICO should not be privatised, but reorganised to become a mineral resources development vehicle for research, mine development and other business.
- Through the NDC the government should take an active part in mining activities related to strategic minerals like iron, nickel coal and uranium.
- Payment of royalties should be based on gross rather that net back value and the rates should be raised from the current 3percent and 5percent for gold and diamonds to 5percenr and 7percent.
- Royalties for uranium should be raised from the current 3percent to 10percent.

In trying to address all the above concerns, the government has announced its intention to review the Mining Law and Legislation. However, there is little chance that the proposed changes will affect operations of the current mining ventures because current MDAs agreements contain clauses which bind the country to "guarantee the fiscal stability of a long term mining project, by reference to the law in force at the effective date of the agreement, with respect to the range and applicable rates of royalties, taxes, duties, fees and other fiscal imposts and the manner in which liability in respect thereof is calculated" As well, these agreements 'may contain special provisions relating to the payment of any such fiscal impost to take effect in the event of a change in the applicable law". As observed by Shivji (2007a) the implication of this clause is that the tax regime existent at the time of signing of the agreement remains in effect throughout the period of the agreement even if parliament changes that regime by a subsequent law.